

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2020

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

CRL.O.P.No.7640 of 2020

P.Moorthy

... Petitioner

Vs.

The state rep. by Inspector of Police,
N.I.B & C.I.D, Coimbatore.
Crime No.140/2019

... Respondent

Prayer : Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioner on bail in Crime No.140/2019 on the file of the respondent.

For Petitioner : Mr.B.Nambi Selvan

For Respondent : Mr.C. Iyyappa Raj
Additional Public Prosecutor

ORDER

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The petitioner, who was arrested and remanded to judicial custody on 30.08.2019 for the offences punishable under Section 8 (c) r/w 20 (b) (ii) (C) of N.D.P.S. Act, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the respondent police got reliable information about clandestine transportation of Ganja by the petitioner and his associate, viz., Jagan, both hailing from Devaram Theni District. On 27.08.2019 at about 10.30 hours, the respondent police kept vigil near Coimbatore Railway Station. The informer identified two persons and one person by name Jagan was intercepted and seized 22 Kgs of Ganja, which is a commercial quantity and other person slipped away, who is the petitioner herein. The said Jagan was arrested and gave a confession implicating the petitioner. Thereafter, on 30.08.2019 at about 9.45 hours, the petitioner was arrested near a public conveyance in VOC Maithanam and from his confession, 2 Kgs of Ganja was seized. The petitioner admitted his offence in transportation of Ganja along with his associate, namely Jagan on 27.08.2019. The investigation in this case was completed and charge sheet filed in this case.

3. The learned counsel appearing for the petitioner would submit that on the confession of Jagan, the petitioner was arrested on 30.08.2019 near VOC Maithanam and 2 Kgs of Ganja is said to have been seized from him. It is a public place and nobody will keep Ganja in open place. Further, when the co-accused arrest was known, the normal conduct would be that the petitioner would not roam around in the same area for 3 days with Ganja. Moreover, the seizure from the petitioner is only 2 kgs of Ganja,

which is not a commercial quantity. The petitioner has been falsely implicated in this case along with said Jagan to project commercial quantity of Ganja and petitioner involvement in this case. Hence, he prays for bail to the petitioner.

4. The learned Additional Public Prosecutor filed a counter stating that on a specific information, the respondent police kept vigil near Coimbatore Railway Junction. When the accused saw the police, the petitioner slipped from the scene of occurrence and the other accused Jagan was arrested and 21 Kgs of Ganja was seized. The said Jagan had given a confession about the other person who accompanied and assisted him, is the petitioner herein and they both belong to Devaram Theni District. Thereafter, the petitioner was arrested near VOC Maithanam. During investigation, the petitioner admitted that he is the person, who travelled along with the said Jagan and actively participated in the transportation of commercial quantity of Ganja. He disclosed the place where he concealed the 2 Kgs of Ganja and the same was also seized. Thereafter, the petitioner was arrested and remanded in this case. After investigation, the petitioner along with other accused is charged for the offence under Sections 8 (c) r/w 20 (b) (ii) (C) and 29(1) of N.D.P.S. Act. The petitioner had conspired with the other accused in procurement and transportation of commercial quantity of Ganja. Further, the petitioner has not satisfied the twin conditions enumerated under Section 37

of NDPS Act. Hence, he strongly opposed to grant bail to the petitioner.

5. It is seen that the petitioner was arrested near a public conveyance at VOC Maithanam and 2 kgs of Ganja was seized from him. Earlier, when the co-accused was arrested, the petitioner ran away from the scene of occurrence. On the confession of the co-accused, the petitioner was arrested and it is known that the petitioner had travelled along with him from Andhra Pradesh to Coimbatore in procurement and transportation of Ganja. It is further seen that the investigation is completed and charge sheet filed and a copy of the charge sheet produced. The case is taken on file as C.C.No.18 of 2020 and the case is listed for examination of LW1 to LW3. From the charge sheet, it is seen that the apart from the other offence, the petitioner was also charged under Section 29(1) of NDPS Act. Considering the above facts and circumstances of the case, this Court is not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

सत्यमेव जयते

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18.06.2020

Internet: Yes/No
dna

To

1.The Judicial Magistrate No.VII,
Coimbatore.

2. The Inspector of Police,
N.I.B. & C.I.D, Coimbatore.
Crime No.140/2019

3. The Public Prosecutor,
High Court, Madras.

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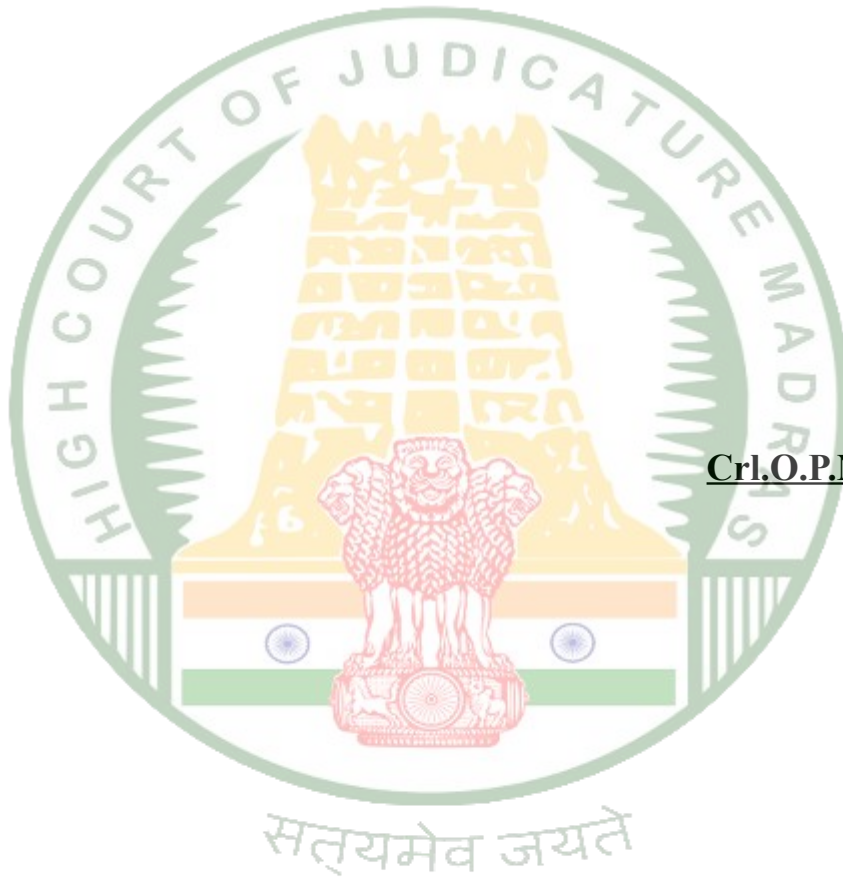
The Superintendent,
Central Prison, Coimbatore.



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M.NIRMAL KUMAR.,J.

dna



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