

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.05.2020

CORAM

THE HONOURABLE MR. JUSTICE **M.NIRMAL KUMAR**

CrI.O.P.No.7806 of 2020

D.Ramesh,
Aged about 33 years
S/o.Durairaj
No.1/100, Nattan Kadu
Vettaikaran Iruppu
Kilvelur Taulk,
Nagapattinam District.

.. Petitioner

Vs.

State by
The Intelligence Officer
DRI – South Zone
T.Nagar,
Chennai-600 017.
R.R.No.21 of 2018

.. Respondent

Prayer: Criminal Original Petition filed under Section 439 of Cr.P.C to enlarge the petitioner on bail pending trial in C.C No.75 of 2019 on the file of the learned I Additional Special Court for NDPS Act Cases, Chennai.

For Petitioner : Mr.Ganesh Rajan

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor for
DRI Cases

ORDER

The petitioner, who was arrested and remanded to judicial custody on 22.09.2018 for the offences under Sections 8 (c) r/w 20, 23, and 29 of NDPS Act and Sec.135 of Customs Act in R.R.No.21 of 201, on the file of the respondent, seeks bail.

2. The case of the prosecution is that the respondent, on specific information had intercepted the Car bearing Registration No.TN01 X 8570 on 21.09.2018, near Toll Plaza at Sullurpetta at about 15.30 hours and apprehended the petitioner and another, and also conducted search on the vehicle which was driven by A1 Raju. The allegation against the petitioner is that he along with A2, attempted to transporting 229.800 kilo grams of Ganja in a vehicle from Andhra Pradesh to Nagapattinam for onward smuggling to Srilanka through coastal district of Nagapattinam. After completing the formalities under Section 50 of NDPS Act, further proceedings were recorded and 229.800 kgs of Ganja has been recovered. Hence the complaint.

3. The learned counsel for the petitioner submitted that from 22.09.2018, the petitioner is in jail and presently, the health condition of the petitioner is deteriorating since he has developed severe problem in

his testicles and the petitioner was also given treatment in the Government Stanley Hospital, Chennai for a period of three days and thereafter, the petitioner was again confined to the prison. Subsequently, the health condition of the petitioner is bad and due to the Covid-19 restrictions, the petitioner is unable to take proper treatment and now, the petitioner requires a constant timely better medical treatment in a private hospital. Hence, the petitioner seeks interim bail for a period of two months. Further, the learned counsel for the petitioner submitted that the petitioner is only aged 33 years and he is a permanent resident and having 2 years old male child and also he is ready to abide by any conditions that may be imposed on him. The learned counsel for the petitioner further submitted that the petitioner may be referred to a private hospital for better medical treatment at the cost of the petitioner.

4. The learned Special Public Prosecutor appearing for the respondent has filed a counter stating that on specific information, the respondent had intercepted the **white colour Skoda Car** bearing Registration No. TN01 X 8570 on 21.09.2018, near Toll Plaza at Sullurpetta at about 15.30 hours, which was driven by the petitioner as well as A2. On enquiry, A1 and A2 admitted that they were carrying about 229.800 kilo grams of Ganja from Andhra Pradesh to Nagapitnam

for onward smuggling to Srilanka through coastal district of Nagapattinam. After completing the formalities under Section 50 of NDPS Act, 229.800 kgs were recovered under a mahazar and registered the case. Further, the properties were sent for chemical analysis and the chemical analysis report shows the contraband is Ganja and the petitioner had given a statement under Section 67 of NDPS Act stating that one Sriram belongs to Andhra Pradesh handed over the contraband of Ganja to the accused for transporting the same to Nagapattinam for delivery to one Jayachandran for a valuable consideration. The said Jayachandran smuggled out the Ganja to Srilanka through coastal District of Nagapattinam.

5. The learned Special Public Prosecutor further submitted that in this case, investigation has already been completed and charge sheet filed in C.C No.75 of 2019 on the file of the I Additional Special Court for NDPS Act Cases, Chennai. Already four witnesses examined and only six more witnesses are to be examined. Further, he submitted that earlier, for health condition of the petitioner, following the procedure he was immediately sent to Stanley Government Hospital for treatment and after getting treatment, he is now in the prison with good health condition. Further, he submitted that the petitioner has been regularly

appearing before the trial Court till the lockdown, from the last week of March 2020. The petitioner has not made any representation before the trial Court. Taking advantage of the present Covid-19, this petition is filed and hence, he strongly opposed to grant bail to the petitioner, who is involved in possession and smuggling of commercial quantity.

6. When this case came up earlier, this Court directed the learned Additional Public Prosecutor appearing for the State to verify from the Prison authorities about the health condition of the petitioner in jail. The learned Additional Public Prosecutor, on instructions submitted that for the past three months, the petitioner was not referred to any hospital and he is hale and healthy as per the report given by Dr. Naveen Kumar attached to the Prison hospital. Further, in view of the medical report by the Prison Doctor as submitted by the learned Additional Public Prosecutor, the Special Public Prosecutor, strongly opposed the bail application.

7. Considering the facts and circumstances of the case and the materials produced before this Court and also the medical condition reported by the learned Additional Public Prosecutor, this Court is not

8. Accordingly, this Criminal Original Petition is dismissed. However, in consideration of the petitioner's specific plea that he is suffering from testicle pain and it is unbearable and taking into consideration the nature of sickness and the petitioner suffering radiation pain, the Superintendent of Prison, Puzhal is directed to refer the petitioner to the Government Stanley Hospital, Chennai, for timely better medical care.

29.05.2020

Internet: Yes/No.

Speaking / Non-Speaking Order

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To

1. The learned I Additional Special Court for NDPS Act Cases, Chennai.
2. The Intelligence Officer
DRI – South Zone
T.Nagar,
Chennai-600 017.
3. The Special Public Prosecutor
High Court of Madras.

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M.NIRMAL KUMAR J.

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