

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.05.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl. O.P. No.7821 of 2020

1. Vediappan
2. Venkatesan

... Petitioners

-Vs-

State rep. By

The Inspector of Police,
Denkanikottai Police Station,
Krishnagiri District.
(Crime No.168 of 2020)

... Respondent

PRAYER:- Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioners on bail in Crime No.168 of 2020 on the file of the Inspector of Police, Denkanikottai Police Station, Krishnagiri District.

For Petitioner : Mr.B.Vasudevan

For Respondent : Mr. Karthikeyan Swaminathan,
Additional Public Prosecutor

O R D E R

The Petitioners, who are A1 and A2 in Crime No.168 of 2020 for the alleged offence under Sections 8(c), 20(b) (ii) (B) of NDPS Act, 1985, were arrested on 09.04.2020.

2. The gist of the case is that on a complaint of one Mr.Gnanakkan Ragunathan, Sub-Inspector of Police, Denkanikottai Police Station on 09.04.2020 at about 9.00.a.m conducted raid near Bikkanapalli Village bus stop and found the petitioners were in illegal conscious possession of 2 kg of Ganja without any valid licence and on seeing the police, the accused attempted to run away. One of the accused is the father of the petitioner who ran away from scene of occurrence. Thereafter, following the procedure, the contraband Ganja of 2 kg has been seized and investigation is pending. The father of the petitioner is absconding.

3. The contention of the Petitioners is that the petitioners are brothers. While they were proceeding to one of the relatives house, at that time near Bikkanapalli Village bus stop, they were questioned by the respondent police and enquired with regard to a bag which was found there. No contraband was seized from the conscious possession of the petitioners. The petitioners denied about the knowledge of the bag and its contents. Since nobody was available nearby, the petitioners were

found to be the reason for the contraband and they were arrested and remanded to judicial custody from 09.04.2020. He would submit that there is no previous case against the petitioners and hence, he seeks bail to the petitioners.

4. The learned Additional Public Prosecutor submitted that the respondent police, on secret information about smuggling of Ganja by the petitioners, they were intercepted near the village bus stand, who were carrying a bag. When they were questioned about the same, they were unable to give any valid reason. On searching the bag, 2 kgs of Ganja has been seized. Thereafter, the petitioners were arrested. One of the co-accused ran away from the scene of occurrence and yet to be secured. The learned Additional Public Prosecutor fairly conceded that there is no bad antecedent against the petitioners. However, he objected for the grant of bail to the petitioners.

5. Taking into consideration the fact that the Petitioners are in judicial custody from 09.04.2020, this Court is inclined to grant bail to the Petitioners, subject to the following conditions:-

(a) each of the petitioner shall deposit a sum of Rs.5,000/- (Rupees five thousand only) to the Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai-600 020 (Bank: Andhra Bank, Madhya Kailash, SB A/c.No.149710011005477) and on such deposit the petitioners are ordered to be released on bail on executing their own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) before the Superintendent of the concerned prison; in which the petitioners have been confined on their release;

(b) each of the Petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the concerned Magistrate on or before 01.07.2020, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the Petitioners shall not commit any offences of similar nature;

(e) the Petitioners shall not abscond either during investigation or trial;

(f) the Petitioners shall not tamper with evidence or witness either during investigation or trial;

(g) the Petitioners shall report before the respondent police as and when required for interrogation.

(h) on breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the Petitioners in accordance with law as if the conditions have been imposed and the Petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K. Shaji -vs- State of Kerala [(2005) AIR SCW 5560]**;

(i) if the accused thereafter absconds, a fresh F.I.R. can be registered under Section 229A I.P.C.

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-
26/05/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE NO.I,SALEM

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT,MADRAS.

4 THE INSPECTOR OF POLICE,
DENKANIKOTTAI POLICE STATION,
KRISHNAGIRI DISTRICT,

5 THE SUPERINTENDENT,
CENTRAL PRISON,SALEM

6 THE CANCER INSTITUTE (WIA)
(REGIONAL CANCER CENTRE),ADYAR,CHENNAI-600020,
ANDHRA BANK,MADHYA KAILASH BRANCH
(SB A/C NO.149710011005477)

CC to M/S. B.VASUDEVAN Advocate on payment of necessary charges

CRL OP.7821/2020

Date :26/05/2020