

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.05.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P. No.7824 of 2020

Muhawenimana Bruno

... Petitioner

-Vs-

The State by,
Station House Officer,
Annamalai Nagar Police Station,
Chidambaram. Respondent

PRAYER:- Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.54 of 2020 pending on the file of the Station House Officer, Annamalai Nagar Police Station, Chidambaram.

For Petitioner : Mr.C.Ganesh Pandian
For Respondent : Mr. Karthikeyan Swaminathan,
Additional Public Prosecutor

O R D E R

The Petitioner, who is the accused in Crime No.54 of 2020 for the alleged offence under Sections 8(c), 20(b) (ii) (A) of NDPS Act, was arrested on 29.02.2020.

2. The case of the prosecution is that the petitioner, who is a student, studying M.A. Population Development at Annamalai University, hailing from Rwandese, South Sudan, was found in possession of 850 grams of Ganja. The petitioner used to sell the Ganja to the other students in the Hostel campus. On information about the petitioner's activity, the petitioner was enquired and he was unable to give any valid reason for the possession of 850 grams of Ganja.

3. The contention of the Petitioner is that the petitioner is a student, studying M.A. Population Development at Annamalai University, Chidambaram and he is staying in International hostel at Annamalai Nagar. The petitioner is sharing his room with his classmates. The petitioner was enquired with regard to 850 grams of Ganja, which was found in the hostel. The petitioner being a foreign national, was unable to understand the language of the Enquiry Officer. The petitioner took time for answering the questions and hence, the respondent became suspicious and came to the conclusion that the petitioner is the reason for 850 grams of Ganja, which was found in the hostel. The contraband was not seized from the conscious possession of the petitioner. The petitioner had earlier moved

bail applications before this Court and the same were dismissed for the reason that the petitioner is a foreigner and he may leave from the country.

4. The learned Additional Public Prosecutor submitted that the petitioner is a foreign national and studying M.A. Population Development at Annamalai University. He would submit that the petitioner was found in possession of 850 grams of Ganja and he used to spoil the other students in the hostel by selling Ganja to them. On specific information about the petitioner, the respondent police went to the hostel and seized the contraband from the possession of the petitioner. He would submit that there is no previous case against the petitioner. Since the petitioner is a foreign national, if he granted bail, he may leave the country. He would further submit that on earlier occasions, the bail applications, which were filed by the petitioner, were dismissed for the same reason. Hence, he objected to grant the bail to the petitioner.

5. Considering the rival submissions and also taking note of the fact that the petitioner is a student, studying M.A. Population Development at Annamalai University and staying in hostel and it is seen that only one more semester is left for the petitioner to complete his course, further, Ganja seized is 850 grams and also considering the age of the petitioner (27 years), he has come from South Sudan to pursue his education, this Court is inclined to grant bail to the Petitioner, subject to the following conditions:-

(a) the Petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each before the Superintendent of the concerned prison in which the Petitioner has been confined on his release;

(b) 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) after release, the petitioner shall surrender his passport to the respondent police and the respondent police shall keep the same in the safe custody and produce before the concerned Court after lifting of lockdown;

(e) the Petitioner shall report before the Respondent Police on every Sunday at 10.00 a.m until further orders;

(f) the Petitioner shall not commit any offences of similar nature;

(g) the Petitioner shall not abscond either during investigation or trial;

(h) the Petitioner shall not tamper with evidence or witness either during investigation or trial;

(i) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the Petitioner in accordance with law as if the conditions have been imposed and the Petitioner 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];

(j) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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-I,
CHIDAMBARAM

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT,MADRAS.

4 THE STATION HOUSE OFFICER,
ANNAMALAI NAGAR POLICE STATION,CHIDAMBARAM.

5 THE SUPERINTENDENT,
CENTRAL PRISON,PUZHAI,CHENNAI

CC to M/S.C.GANESH PANDIAN Advocate on payment of
necessary charges

CRL OP.7824/2020

Date :26/05/2020