

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2020

CORAM:

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

CRL.O.P.No.8497 of 2020

1.Buttri @ Karuppathal (M/A.63 years)

W/o.Lakshmanan,
Dam Road,
Navasapuram,
K.N.Palayam,
Gobichettipalayam,
Erode District.

2.Ramayee (M/A.66 Years)

W/o.Karuppannan,
Periyasamy Koil Street,
K.N.Palayam,
Erode District.

... Petitioners/Accused 1 & 2

Vs.

The State, represented by

The Inspector of Police,

Bangalapudur Police Station,

Erode District.

(Crime No.426 of 2020)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., praying, to enlarge the petitioners /accused 1 & 2 on bail and release him from the custody in Crime No.426 of 2020 pending on the file of the respondent police.

For Petitioners : Mr.C.Ramkumar

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor

ORDER

The petitioners, who are arrested and remanded to judicial custody on 15.05.2020 for the offences punishable under Sections 20(b)(ii)(A) of NDPS Act and Section 328 of IPC in Crime No.426 of 2020 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 15.05.2020 based on the secret information the respondent police had conducted an enquiry and found that the petitioners and other accused are in possession of 150 grams of Ganja.

3. The learned counsel for the petitioners would submit that the petitioners are doing flowers vending business in the street and they are old aged persons. He would further submit that the respondent police for statistical purpose have foisted the case against the petitioners. He would further submit that the petitioners are not committed any such offence and the petitioners are in judicial custody from 15.05.2020 and therefore, he prays for grant of bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that as regards the petitioners, they are involved in three previous cases each of similar nature and they are regularly circulating Ganja. Hence, he opposed for grant of bail to the petitioners.

5. Taking into consideration the period of incarceration and the quantity seized from the petitioners is a small quantity of 150 grams of Ganja and considering the age of the petitioners, this Court is inclined to grant bail to the petitioners, subject to the following conditions:

(a) 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) the petitioners shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, 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 report before the respondent police daily at 10.30 a.m., for a period of 8 weeks and thereafter as and when required for interrogation;

(e) the petitioners shall not commit any offences of similar nature;

(f) the petitioners shall not abscond either during investigation or trial;

(g) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(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 FIR can be registered under Section 229A IPC.

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

11.06.2020

Internet : Yes / No
gbi

To

1. The Judicial Magistrate-I, Gobichettipalayam.

2. The Central Prison, Coimbatore.

3. The Inspector of Police, सत्यमेव जयते

Bangalapudur Police Station,

Erode District.

4. The Public Prosecutor, High Court, Madras.

M.NIRMAL KUMAR, J.

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