

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Cr1.O.P.No.9721 of 2020

1.Sundara Mahalingam
2.Pandi Prabhu

... Petitioners

-VS-

State represented by
The Inspector of Police,
Tiruppur North Police Station,
Tiruppur.
(Crime No.1253/2020.)

... Respondent

PRAYER:- Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioners on bail in Crime No. 1253 of 2020 pending on the file of the respondent

For Petitioners : Mr.J.Franklin

For Respondent : Mr.K.Prabakar
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The Petitioners, who were arrested and remanded to judicial custody on 15.05.2020 for the offences punishable under Sections 8(c) r/w 20(b) (ii) (B) & 25 of NDPS Act, in Crime No.1253 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution as per the de-facto complainant is that accused 2 and 3 are found to be in unlawful possession of 2 kgs and 250 gms of ganja in a two wheeler and based on the information given by them, the first accused was found to be in possession of 3 kgs and 100 gms of ganja in a water tanker lorry.

3.The learned counsel for the Petitioner would submit that the petitioners are innocent and are falsely implicated in this case. He would further submit that the petitioners were arrested on 15.05.2020 itself and prays for grant of bail to the petitioners. He would further submit that he is not pressing this petition in respect of the first petitioner who is the first accused.

4.The learned Additional Public Prosecutor would submit that the petitioners are arrayed as A1 and A3 and the first accused is the supplier of ganja and the accused 2 and 3 are the retail sellers. He would further submit that there are no previous case against the petitioners.

5. Recording the submission made by the learned counsel for the petitioners, this petition is dismissed as not pressed in respect of the first petitioner.

6.Taking into consideration of the facts and circumstance of this case and also considering the fact that the second petitioner was in jail from 15.05.2020, this Court is inclined to grant bail to the second petitioner subject to the following conditions:-

(a) Accordingly, the second petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the Petitioner has been confined and thereafter on his release;

(b) The second petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the learned Judicial Magistrate-I, Tiruppur within 15 days from the date of lifting of the lockdown and the commencement of the Court's normal functioning, 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 second petitioner shall report before the respondent police every day at 10.30 A.M. for a period of two weeks and thereafter every monday at 10.30 a.m. until further orders.

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

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

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

(h) on breach of any of the aforesaid conditions, the learned Judicial 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.

-sd/-
30/06/2020

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.1, TIRUPPUR.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
TIRUPPUR NORTH POLICE STATION,
TIRUPPUR.

5 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

CC to M/S.J.FRANKLIN Advocate on payment of necessary charges

CRL OP.9721/2020

Date : 30/06/2020

TA-14/07/2020