

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.08.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.10927 of 2020

1.Muhammad Shafi
2.Muhammed Aslam

... Petitioners

Vs.

State: Inspector of Police
NIB, CID,
Kanchipuram.
Crime No.30 of 2020

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail pending investigation in Crime No.30 of 2020 on the file of the respondent.

For Petitioner : Mr.M.P.Saravanan

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 23.05.2020 for the offence punishable under Sections 8(c) 20(b)(ii)(B), 25 and 29(1) of NDPS Act in Crime No.30 of 2020 seek bail.

2. The case of the prosecution is that on 23.05.2020, the respondent received an information stating that two persons namely Muhammad shafi and Mohammed Aslam were transporting ganja in a Swift Car bearing Reg.No.KL 02 BG 4000 following which, the car was intercepted and on search, 4 kgs. of ganja was recovered from the petitioners. Hence, the complaint.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would further submit that the first petitioner is a B.E. Graduate having completed his graduation in the year 2019 and the second petitioner is studying in Aarupadai Veedu Institute of Technology, O.M.R. Chenani, and the petitioners have been in judicial custody for 75 days from 23.05.2020. Hence, he prays for grant of bail to the petitioners.

4.The learned Government Advocate (Crl. Side) would submit that on a specific information, the car in which the petitioners were traveling, was intercepted and the petitioners were found in possession of 4 kgs of ganja. He would further submit that the petitioners earlier while studying in college, were in the habit of supplying ganja to the students studying in the colleges in and around Mahabalipuram Road. He would further submit that the first petitioner has completed his B.E. Graduation and the second petitioner has been debarred from the college. Hence, he vehemently opposed to grant bail to the petitioners.

5. At this juncture, the learned Counsel for the petitioners would submit that the petitioners are resident of Kerala and the petitioners' fathers have also come from Kerala and they are prepared to appear before the respondent along with their wards and give necessary security for their appearance before the Court.

6.Taking into consideration of the facts and circumstances and the submissions made by the learned counsels and considering the period of incarceration undergone by the petitioners from 23.05.2020, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on condition to execute their own bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the Superintendent of the concerned prison, in which the petitioners have been confined;

(b) the petitioners on their release from prison, shall report before the respondent police daily at 10.30 a.m. until further orders and the fathers of the petitioners who have come from Kerala, shall appear before the respondent and execute a bond before the respondent for a sum of Rs.10,000/- (Rupees Ten Thousand Only).

(c) thereafter, within a period of two weeks after lifting of lockdown or commencement of the Court's normal functioning whichever is earlier, the petitioners shall surrender before the Judicial Magistrate-I, Kanchipuram, and furnish two sureties for a sum of Rs.10,000/- each failing which the bail granted by this Court shall stand dismissed automatically.

(d) 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;

(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 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/-

07/08/2020

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, KANCHIPURAM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI

4 INSPECTOR OF POLICE,
NIB, CID, KANCHIPURAM,

CC to M/S.M.P.SARAVANAN Advocate on payment of necessary charges

WEB COPY

CRL OP.10927/2020

Date :07/08/2020

RVR 14/09/2020