

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2020

CORAM :

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

CRL.O.P.No.16682 of 2020

Ayyappan

... Petitioner

Vs.

State Rep. By
The Inspector of Police,
Kottur Police Station,
Coimbatore District.
(Crime No.373 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.373 of 2020 on the file of the respondent police.

For Petitioner : Mr.M.N.Balakrishnan

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

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 18.08.2020 for the offences punishable under Sections 8(b) r/w 20(a)(i) and 8(c) r/w 20(b)(ii)(B) of NDPS Act, in Crime No.373 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant, the Sub Inspector of Police attached to the respondent police is that on information when they made a search, they found that the petitioner along with other accused was in possession of 1.1 Kg (1100 grams) of Ganja and on enquiry they also found that two grown up Ganja plants were cultivated in his house. Hence the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner is in custody from 18.08.2020 and there is no previous cases pending against the petitioner and he is in judicial custody for more than 70 days.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioner along with other accused was found to be in possession of 1.1 Kg (1100 grams) of Ganja and that during enquiry, it was found that the petitioner was also cultivating two grown up GANJA plants in his house. He would further submit that the petitioner was arrested on 18.08.2020 and he has no previous cases against him.

5.Taking into consideration of the facts and circumstances and also considering the submissions made by the learned counsels and also considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate-II, Coimbatore, and on further conditions that:

(b) 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;

(c)the petitioner on his release from prison shall report before the respondent police everyday at 10.30 a.m. until further orders.

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

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

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

(g) 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];

(h) 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/-
28/10/2020

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.II,
COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
KOTTUR POLICE STATION,
COIMBATORE DISTRICT.

CC to M/S. M.N.BALAKRISHNAN Advocate on payment of
necessary charges

CRL OP.16682/2020

Date :28/10/2020

MK:29/10/2020