

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.10.2020

CORAM :

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

CRL.O.P.No.16992 of 2020

Babu @ Black Babu

... Petitioner

Vs.

The State, represented by
Inspector of Police
Mettupalayam Police Station,
Coimbatore - District
(Crime No.1030 / 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner/accused on bail pending investigation in Crime No.1030 of 2020 on the file of the respondent.

For Petitioner : Mr.I. Periaswamy

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 20.08.2020 for the offence punishable under Sections 8(c) read with 20(b)(ii)(B) of NDPS Act, in Crime No.1030 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant is that on 20.08.2020, the petitioner was found in possession of 1.200 Kgs of kanja. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that this is the second application for bail and the earlier petition was dismissed by this Court vide Crl.O.P.No.14657 of 2020 dated 01.10.2020. He would further submit that the petitioner has got eight previous cases which are registered for offences under the IPC and in order to put fetters on the petitioner, the respondent police has implicated him in this Narcotics case. He would submit that the petitioner was arrested when he was attending his friend's mother's funeral on 20.08.2020 and he has been suffering incarceration for 70

days since then and that there is no other case pending against the petitioner under NDPS Act. Hence, he prays for grant of bail to the petitioner.

4.The learned Government Advocate (Crl. Side) appearing for the respondent police would vehemently oppose stating that the petitioner is a habitual offender against whom there are eight previous cases pending at Mettupalayam police station.

5. It is seen that though there are eight previous cases pending against the petitioner, all those cases are related to the year between 2010 to 2018 and in all the cases the petitioner has been granted bail. Further, there is no other case pending against the petitioner for offence under NDPS Act and taking into consideration the period of incarceration suffered by the petitioner from 20.08.2020, 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 Additional District Judge/Presiding Officer, Special Court for Essential Commodities Act Cases, 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 shall report before the respondent police everyday at 10.30 a.m. and 5.30 p.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/-
29/10/2020

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 ADDITIONAL DISTRICT JUDGE/
PRESIDING OFFICER, SPECIAL COURT
FOR ESSENTIAL COMMODITIES ACT CASES,
COIMBATORE.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
METTUPALAYAM POLICE STATION,
COIMBATORE DISTRICT.

CC to M/S.I.PERIASWAMY Advocate on payment of necessary charges

CRL OP.16992/2020

Date :29/10/2020

cs 02/11/2020

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