

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.11.2020

CORAM :

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

CRL.O.P.No.17532 of 2020

C.David Franko

... Petitioner

Vs.

The State, represented by
The Inspector of Police,
R.5 Virugambakkam Police Station,
Chennai.
(Crime No.566 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail, in Crime No.566 of 2020, pending investigation on the file of the respondent police.

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

O R D E R

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 25.08.2020 for the offence punishable under Section 8(c) r/w 20(b) (ii) (B) of Narcotic Drugs & Psychotropic Substances Act, 1985, in Crime No.566 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Sub Inspector of Police attached to the respondent police station is that on 23.08.2020, he received a confidential information that some people were selling Ganja near Prince Park Hotel, Ponniyamman Koil Street and thereby, he along with his police party were watching the movement at the location. At about 2.30 p.m. one Prithviraj, Eszhilarasan, Saisudhan and one Prasath were intercepted and on verification, the said Prithviraj was found in possession of 4 kgs. of Ganja in a small polythene bag and cash of Rs.6,000/-. Based on further information, the respondent police went to Velayudham Colony and apprehended one Abdul Razak, Hari Vignesh and one Rahul and recovered another 5 kgs of Ganja from them and on the statement of said Abdul Razak, the respondent went to SBI Colony and arrested one Vijay Yuvaraj and the case was registered under the provisions of NDPS Act. On the next day i.e. 24.10.2020, based on the information from the arrested accused, Ubaiyuthulla, Vignesh @ Haribabu, Nuthaki

Issac and the petitioner were arrested and 10 kgs of Ganja was recovered from them.

3.The learned counsel appearing for the petitioner/A12 would submit that the petitioner is an innocent and he has been falsely implicated in this case since he happens to be the friend of other accused. He would further submit the petitioner is BBA Graduate and he is no way connected with the alleged offence. Ever as per the prosecution, the first contraband was recovered from the one Prithviraj and only based on his statement, the other accused were arrested and the contrabands are stated to have been recovered from various locations. He would further submit that the main accused has been granted bail by the Special Court in Crl.M.P.No.1532 of 2020 dated 28.10.2020 and that the other accused have also been granted bail by the Special Court vide Crl.M.P.Nos.1517, 1557, 1558, 1532, 1559 of 2020 dated 28.10.2020 and vide Crl.O.P.No.1618 of 2020 dated 29.10.2020 and Crl.O.P.No.1541 of 2020 dated 14.10.2020. He would further submit that one of the co-accused namely Prasath, has been granted bail by this Court vide Crl.O.P.16736 of 2020 dated 06.11.2020. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner along with other accused had involved in selling of Ganja and that totally 18 kgs. of Ganja, two motor cycles, two electronic weighing machines and 10 mobiles phones have been recovered and there is no previous case against the petitioner.

5. Heard the learned Counsel on either side. Perused the materials placed on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and the fact that there is no previous case against the petitioner and the co-accused have been granted bail by the Special Court and also by this Court, 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 Principal Special Court under EC & NDPS Act, Chennai-104, 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.

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

-sd/-

09/11/2020

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 PRINCIPAL SPECIAL COURT
UNDER EC & NDPS ACT, CHENNAI 104.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAI, CHENNAI

4 INSPECTOR OF POLICE,
R-5 VIRUGAMBAKKAM POLICE STATION,
CHENNAI.

+2 CC to M/S.R.SANKARASUBBU Advocate on payment of necessary
charges SR.7384

CRL OP.17532/2020

Date :09/11/2020

RVR 10/11/2020



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