

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.11.2020

CORAM :

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

CRL.O.P.No.17592 of 2020

Gunaram Phukan @ Sri Gunaram

... Petitioner

Vs.

State Rep by:-

The Inspector of Police,
NIB CID,
Kancheepuram
(Crime No.8 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.8 of 2020 on the file of the respondent police.

For Petitioner : Mr.M.Vijayaragavan

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 24.01.2020 for the offences punishable under Sections 8(c) r/w 20(b)(ii), 25 and 29(1) of NDPS Act in Crime No.8 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner along with two other accused were found to be in possession of 5kgs of Ganja. 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 arrayed as A3 and he was arrested on 24.01.2020. He would submit that A1 and A2 have been enlarged on bail by the Lower Court. Hence, he prays for grant of bail to the petitioner.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose the grant of bail stating that the petitioner along with two other accused were found in possession of 5kgs of Ganja. He would further submit that the petitioner is a resident of Assam and there is a chance of absconding. He would submit that the investigation has been completed and final report has been filed before the learned Special Judge, 1st Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai and it was taken on C.C.No.57 of 2020.

5. At this juncture, the learned counsel for the petitioner would submit that the petitioner is prepared to abide by any stringent condition that may be imposed on him.

6. Taking into consideration the facts and submissions made by the learned counsels and also 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.25,000/- (Rupees Twenty Five Thousand only), with two sureties, out of which, one surety shall be the relative of the petitioner and other shall be Government servant, each for a like sum to the satisfaction of the learned Special Judge, 1st Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai. 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 learned Special Judge, 1st Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai, daily 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/-
10/11/2020

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 SPECIAL JUDGE 1ST
ADDITIONAL SPECIAL COURT FOR EXCLUSIVE TRIAL
OF CASES UNDER NDPS ACT, CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
NIB CID,
KANCHEEPURAM.

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

CRL OP.17592/2020

Date :10/11/2020

MK:11/11/2020