

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.12.2020

CORAM :

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

CrI.O.P.No.19972 of 2020

1.KANNAN ... Petitioners

2.PRAKALATHAN

3.SARAVANAN

Vs.

State represented by ... Respondent

The Inspector of Police
Pudupettai Police Station,
Cuddalore District.
(Crime No.1689 of 2020)

Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioners on bail in Crime No.1689 of 2020 on the file of the respondent police.

For Petitioners: Mr.A.M.Rahamath Ali

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

ORDER

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 30.10.2020 for the offence punishable under Section 20 (b)(ii) (B) of NDPS Act and 328 of IPC, in Crime No.1689 of 2020, seeks bail.

2.The case of the prosecution as per the defacto complainant viz. Sub Inspector of Police attached to the respondent police is that while he was on his usual rounds, he had found that the petitioners were selling Ganja and that on seeing the police, they attempted to escape from the scene of occurrence. Four persons were apprehended and three have escaped. There are totally seven accused in this case. The petitioners were found to be in possession of 2.5 Kgs of cannabis and an amount of Rs.15,000/- has been recovered from them which were the proceeds of the sale of Ganja and the respondent police have also recovered two motor cycles from them.

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 there is no complaint by anybody, the respondent police have suo-motu registered a case. The allegation against them is that there are totally seven accused in this case and that the respondent police have arrested four persons and recovered 2.5 kg. of Ganja from them. He would further submit that the petitioners are in custody from 30.10.2020.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that the petitioners were illegally found in possession of 2 kg. and 50 grams of Ganja and that they have arrested A1 to A4 in this case and other three petitioners have escaped from the scene of occurrence. He would further submit that as far as the 1st petitioner is concerned, he has got six previous cases to his credit. As far as the 2nd and 3rd petitioners are concerned, they do not have any previous cases.

5.Taking into consideration of the fact that the 1st petitioner has got six previous cases, this Court is not inclined to grant bail to him. Accordingly, his bail petition stands dismissed.

6.Taking into consideration of the facts and circumstance of the case and submissions made by the learned counsels and also considering the period of incarceration suffered by the 2nd & 3rd petitioners, this Court is inclined to grant bail to the 2nd and 3rd petitioners subject to the following conditions:

(a) Accordingly, the 2nd and 3rd petitioners are ordered to be released on bail on condition to execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the **learned Additional District Judge, Special Court for EC Act Cases, Thanjavur**, 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 2nd and 3rd petitioners on their release from prison shall report before the respondent police everyday at 10.30 a.m. and 5.30 p.m. until further orders.

(d) the 2nd and 3rd petitioners shall not commit any offences of similar nature;

(e) the 2nd and 3rd petitioners shall not abscond either during investigation or trial;

(f) the 2nd and 3rd petitioners 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 2nd and 3rd petitioner in accordance with law as if the conditions have been imposed and the 2nd and 3rd 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 stands dismissed in respect of the 1st petitioner. This Criminal Original Petition stands ordered in respect of the 2nd and 3rd petitioners are concerned.

-sd/-

22/12/2020

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,
SPECIAL COURT FOR EC ACT CASES,
THANJAVUR.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
PUDUPETTAI POLICE STATION,
CUDDALORE DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

+1 CC to M/S.A.M.RAHAMATH ALI Advocate on payment of
necessary charges SR.NO.8646

CRL OP.19972/2020

Date :22/12/2020

TA-23/12/2020