

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.387 of 2021

Palanisamy

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
NIB CID, Salem.
(Crime No.43 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.43 of 2020 on the file of respondent police.

For Petitioner : Mr.S.Rajanikanth

For Respondent : Mrs.M. Prabavathi,
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner is a sole accused. The petitioner, who was arrested and remanded to judicial custody on 25.11.2020 for the offence punishable under Sections 8(c) r/w 20(b)(ii) (B), 25 of NDPS Act, in Crime No.43 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner was found in possession of 1.400 kg. of ganja in a two wheeler. On the date of occurrence, the respondent police intercepted the petitioner, and after conducting a search, had seized the contrabands. Hence, a criminal case was registered against the petitioner. Accordingly, he was arrested and remanded to judicial custody on 25.11.2020.

3. The learned counsel appearing for petitioner would submit that the petitioner has been falsely implicated in the complaint and he was arrested on 25.11.2020. He would submit that the petitioner was not in possession of 1.400 kgs. of ganja and the respondent police has not followed the mandatory procedures in conducting search and seizure. He would also submit that he is not having any bad antecedents. Hence, he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner was in possession of 1.400 kg of ganja. She would further submit that after following all the mandatory requirements, the respondent police had seized the contraband and arrested the petitioner. She would also submit that the petitioner has no previous bad antecedents. However, she opposed to grant bail to the petitioner.

5. Considering the fact that the petitioner is in possession of only 1.400 kg. of ganja, which is a small quantity, he has no previous bad antecedents, and also considering the period of incarceration suffered by the petitioner from 25.11.2020, 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 Special Judge for EC/NDPS Act Cases Court, Salem 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 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/-

18/01/2021

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 FOR EC/NDPS
ACT CASES COURT, SALEM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
NIB CID ,SALEM.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

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

CRL OP.387/2021

Date :18/01/2021

RVR 19/01/2021

सत्यमेव जयते

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