

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Cr1.O.P.No.1099 of 2021

Manoj @ Manoj Kumar

... Petitioner

Vs.

State by the Inspector of Police,
P,1, Puliyanthope Police Station,
Chennai - 600 012.
(Crime No.1082 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.1082 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr.A.Kalaivanan

For Respondent : Mrs.M.Prabhavathi
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 31.08.2020 for the offence punishable under Section 22 (c) of the NDPS Act, in Crime No.1082 of 2020, seeks bail.

2. The case of the prosecution is that based on a secret information received from a informant to the defacto complainant, the petitioner along with another accused selling Narcotic drugs, went to the shop belongs to the petitioner's father and found that the petitioner along with A1 were found in possession of 100 grams of Meth @ Methamphetamin drug powder and a cash of Rs.8,000/-, Hence, the complaint was registered.

3. The learned counsel appearing for the petitioner would submit that the petitioner was arrested and remanded to judicial custody on 31.08.2020 and the statutory period of 180 days expires on 27.02.2021, no final report has been filed till then. Thereafter, on 01.03.2021 the respondent said to have filed the final report after expiry of 180 days. at the time of bail application filed by the petitioner is pending before this Court. He would further submit that A1 had already been arrested and thereafter he was released on default bail by the Special Court. Hence he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor on instructions would submit that the petitioner was arrested and remanded to judicial custody on 31.08.2020 and that date should be excluded for the period of calculating 180 days. She would further submit that the final report has been filed on 01.03.2021 and hence the petitioner is not entitled for default bail, she vehemently opposed for grant of bail to the petitioner.

5. I have considered the rival submissions.

6. The petitioner was arrested and remanded to judicial custody on 31.08.2020 and the statutory period of 180 days falls on 27.02.2021, admittedly, the respondent police did not file a final report within the statutory period for filing a final report and no petition has been filed seeking for extension of time as per proviso to 36A(4) of NDPS Act. The final report has been filed only on 01.03.2021, and the petitioner bail petition is pending before this Court on that date. Hence, the petitioner is entitled to statutory bail, It is also stated that A1 has already been arrested along with him and thereafter he was released on default bail.

7. Taking into consideration the above facts and circumstances of the case, 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 Principal Sessions Judge for NDPS Act Cases, 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 Special Court on all hearing dates without fail.

(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.

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

-sd/-
16/03/2021

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 PRINCIPAL SESSIONS JUDGE
FOR NDPS ACT CASES, CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
P1, PULIYANTHOPE POLICE STATION,
CHENNAI - 600 012.

+1CC to M/S. A.KALAIVANAN Advocate on payment of necessary charges SR NO.3450

CRL OP.1099/2021

Date :16/03/2021

MK:17/03/2021