

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.2046 of 2021

1. Johnson Ali @ John
2. Abdhul Kadhar @ Abdhul

... Petitioners

Vs.

State Rep. by
The Inspector of Police,
T-16 Nasaratpet Police Station,
Chennai.
(Crime No.755 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.755 of 2020 on the file of respondent police.

For Petitioners : Mr.K.Thenrajan

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

O R D E R

(The case has been heard through video conference)

Totally, there are three accused and the petitioners are arrayed as A1 and A3. The petitioners, who were arrested and remanded to judicial custody on 08.12.2020 for the offence punishable under Sections 8(c), 20(b) (ii) (B) of Narcotic Drugs and Psychotropic Substances Act, 1985 in Crime No.755 of 2020, seeks bail.

2. The case of the prosecution is that on the date of occurrence, all the three accused said to have transported 6.100 kg. of ganja in a car, which was waylaid by the respondent police and these petitioners were arrested. After following mandatory requirements, the contraband was seized. Accordingly, the petitioners were arrested on 08.12.2020 and remanded to judicial custody. Now, this petition has been filed seeking for bail.

3. The learned counsel appearing for petitioners would submit that they are innocent persons and they are no way connected with the allegation as alleged in the complaint. He would submit that they have been falsely implicated in the present case. He would submit that they were arrested on 08.12.2020 and they are in jail for nearly 50 days. He would also submit that A2 was granted bail by the Trial Court. Hence, he prayed to grant bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that on the date of occurrence, all the three accused have transported 6.100 kg. of ganja in a car, which was waylaid by the respondent police and these petitioners were arrested. She would submit that after following mandatory requirements, the contraband was seized. She would also submit that A2 was already granted bail by the trial court and these petitioners are A1 and A3. She would submit that the investigation is completed and so far, no final report has been filed. Hence, she opposed to grant bail to the petitioners.

5. Taking into consideration of the fact that, the petitioners were found in possession of 6.100 kg. of ganja, which is less than the commercial quantity, they are not having any bad antecedents, now similarly placed co-accused was released on bail and also considering the period of incarceration suffered by the petitioners from 08.12.2020, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are 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 Judicial Magistrate-I, Poonamallee 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 petitioners, on their release from prison, shall report before the respondent police daily at 10.30 a.m. for the period of two weeks ;

(d) the petitioners shall not commit any offences of similar nature;

(e) the petitioners shall not abscond either during investigation or trial;

(f) the 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-

16/02/2021

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 JUDICIAL MAGISTRATE,
NO.I, POONAMALLEE.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
T-16,NASARATPET POLICE STATION,
CHENNAI.

+1 CC to M/S K.THENRAJAN Advocate on payment of necessary charges
SR.NO.1675

CRL OP.2046/2021

Date :16/02/2021

cs 17/02/2021