

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.2543 of 2021

Vasanth Kumar

... Petitioner

Vs.

The Union of India

NCB through Investigating Officer

Chennai Zonal Unit

(R.R.No.56 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in R.R.No.56 of 2020 in NCB.F.No.48/1/12/2020-NCB/MDS on the file of the Union of India, NCB through I.O.Chennai Zonal Unit.

For Petitioner : Mr.M.Illiyas

For Respondent : Mr.N.P.Kumar,
Special 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 05.11.2020 for the offence punishable under Sections 36(A)(1)(b), 51 and 53 of NDPS Act, in R.R. No.56 of 2020 in NCB.F.No.48/1/12/2020-NCB/MDS on the file of the Union of India, NCB through I.O.Chennai Zonal Unit, seeks bail.

2. The case of the prosecution is that on information, the respondent police have waylaid the defacto complainant and conducted a search on the petitioner and found that he was in possession of 8 kgs. of ganja in a bag tied by the petitioner without any valid license. After following mandatory requirements, the respondent police had seized the contrabands and he was arrested on 05.11.2020. Now, seeking bail, this petition has been filed.

3. The learned counsel appearing for petitioner would submit that the petitioner has been falsely implicated in the present case and while conducting a search, no mandatory procedures have been followed by the respondent police. He would also submit that the quantity of ganja is only in-between quantity and he is in jail from 05.11.2020. Hence, he prayed to grant bail to the petitioner.

5. Mr.N.P.Kumar, learned Additional Public Prosecutor appearing for the respondent has strongly opposed this petition on the ground that the petitioner was found in possession of 8 kgs. of ganja, which

is in-between quantity and the respondent has thoroughly followed the procedures. He would also submit that now the investigation is almost over and they are going to file a complaint and he has also filed a counter affidavit.

6. I have heard and considered the rival submissions made by the learned counsel appearing for petitioner as well as learned Special Public Prosecutor appearing for respondent.

7. Taking into consideration of the fact that, the petitioner was found in possession of 8 kgs. of ganja, which is in-between quantity, it is also alleged that the mandatory requirement has not been followed, and now the investigation is almost completed, there is no previous antecedents against the petitioner and the respondent going to file a complaint, and also considering the period of incarceration suffered by the petitioner for more than three months, 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 XV Metropolitan Magistrate, George Town, 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, after his release from prison, report before the respondent 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.

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

-sd/-

05/03/2021

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 XV METROPOLITAN
MAGISTRATE, GEORGE TOWN, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 THE SPECIAL PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE UNION OF INDIA
NCB THROUGH I.O. CHENNAI ZONAL UNIT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI

CC to M/S.M.ILLIYAS Advocate on payment of necessary charges
Sr.2856

CRL OP.2543/2021

Date :05/03/2021

RVR 08/03/2021

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