

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08..03..2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.3708 of 2021

Parthasarathy

... Petitioner

Vs.

The State Rep. by

The Station House Officer,
Mudaliarpet Police Station,
Puducherry District.

[Crime No.521 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. 521 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr.S.Suresh

For Respondent : Mr.V.Balamurugane,
Public Prosecutor (Puducherry)

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 10.12.2020 for the offence punishable under Section 20(c), 22(b), 27 r/w Section 8(c) of NDPS Act in Crime No.521 of 2020, seeks bail.

2. There are totally eight accused in this case and the petitioner has been arrayed as A3. The allegation is that on 05.10.2020, on a secret information of drug peddling, the respondent conducted a search in a private lodging house where A7 and A8 had been staying. On suspicion, after getting permission from the higher police officer, when the respondent conducted search, A7 and A8 were found in possession of 25 grams of Ganja and used Kettamine bottle (empty injection bottle). On their confession, A1 was arrested and later on, the petitioner (A3) and A4 were arrested on the basis of the confession of A1. According to the prosecution, upon confession of

the petitioner, 1.10 Kgs of Ganja was recovered from the petitioner (A3) and A4 jointly.

3. The learned counsel for the petitioner would submit that the petitioner is innocent of the alleged offence and he has been falsely implicated on the basis of confession of A1. No contraband has been recovered from the petitioner and the alleged recovery of contraband was only from A4.

4. The learned counsel would further submit that even the quantity of the contraband so seized is meager and in between small and commercial quantity and just above the small quantity, therefore, the rigor of Section 37 of NDPS Act will not be applicable. The petitioner is in custody for almost three months and he is ready to abide by any condition that may be imposed by this court in the event of granting bail.

5. The learned Public Prosecutor would submit that the petitioner is a drug peddler, and A1 is the supplier of the contraband to the inmates of the lodging house and other places in the Pondicherry. Totally 1.10 Kgs of ganja was recovered from the petitioner (A3) and A4 and the investigation is pending. According to him, the petitioner has one more case registered against him for involving in drug peddling.

5. The total quantity of contraband seized is 1.10 Kgs which is in between the small and commercial quantity and just above the small quantity. Therefore, Section 37 of the Act will not be applicable. The petitioner was implicated only on the basis of confession of A1 and the contraband was recovered from A3 and A4 jointly. All the accused have been arrested and remanded to judicial custody. The investigation is substantially over. The petitioner is in judicial custody for more than 80 days. Considering 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 executing 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-III, Puducherry, 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 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/-

08/03/2021

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 JUDICIAL MAGISTRATE,
NO.III, PUDUCHERY

2 THE CHIEF JUDICIAL MAGISTRATE
PUDUCHERRY [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUDUCHERRY.

4 THE PUBLIC PROSECUTOR
PUDUCHERRY.

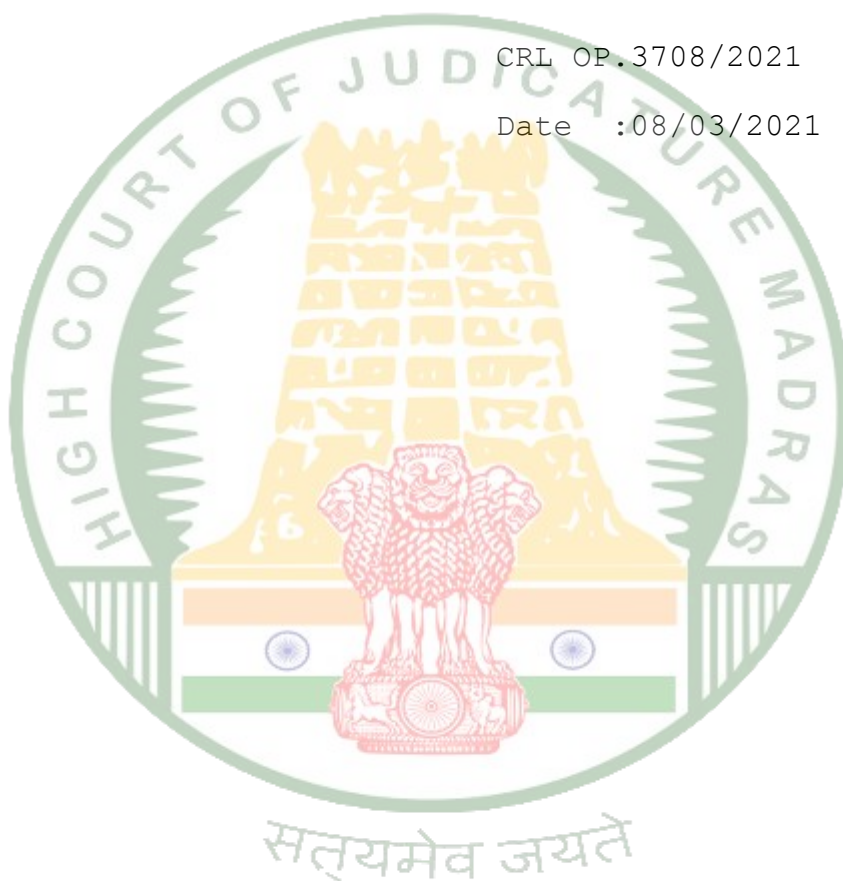
5 THE STATION HOUSE OFFICER,
MUDALIARPET POLICE STATION,
PUDUCHERRY DISTRICT.

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

CRL OP.3708/2021

Date :08/03/2021

cs 09/03/2021



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