

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10..03..2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.3710 of 2021

A.M.Thameem Ansary

... Petitioner

-Versus-

Union of India,
Directorate of Revenue Intelligence,
27, "Adarsh Towers",
G.N.(Chetty) Road,
T.Nagar, Chennai 600 017.
(DRI/CZU/VIII/48/ENQ-01/INT-22.2020) Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in DRI/CZU/VIII/48/ENQ-01/INT-22.2020 pending investigation on the file of the respondent.

For Petitioner : Mr. M.Mathanraj

For Respondent : Mr.P.Vishnu, Spl. P.P.

ORDER

(The case has been heard through video conference)

Petitioner, who was arrested and remanded to judicial custody on 20.12.2020 for the offence punishable under Sections 21, 25A, 28 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 in DRI/CZU/VIII/48/ENQ-01/INT-22.2020, seeks bail.

2. The petitioner is said to be the sole accused in this case. The case of the prosecution on suspicion, when the respondent examined the consignments, they found that 49.2 Kilo Grams of Pseudo Ephedrine was concealed in the polythene pouches and kept in between two anda type utensils welded together Hence, a case was registered, and the petitioner was arrested and remanded to judicial custody on 20.12.2020. Seeking bail, the petitioner has come up with this petition.

3. The learned counsel appearing for petitioner would submit that the petitioner is innocent of the alleged offence. At any rate, the alleged contraband is only a controlled substance under the NDPS Act. Therefore, the rigor of Section 37 of NDPS Act will not apply to the instant case.

4. The learned counsel for the petitioner would further submit. substantial portion of investigation would have been completed by this time. The petitioner is in jail for nearly 85 days and he is ready to abide by any conditions that may be imposed by this court for granting bail.

5. The learned Special Public Prosecutor would fairly admit that the alleged contraband is not a psychotropic substance and it is only a controlled substance coming under Section 9A of the NDPS Act which attracts punishment under Section 25-A of the Act and as such the provision of Section 37 of NDPS Act is not applicable to the present case. He would also submit that investigation was over and a complaint has also been filed on 12.02.2021.

6. Considering the fact that the provision of Section 37 of the Act is not applicable to the contraband seized from the petitioner and that the petitioner has been in incarceration for nearly than 85 days and also on considering the fact that after completing the investigation a complaint has also been filed on 12.02.2021 and the other circumstances of the case, this Court is inclined grant bail to the petitioner subject to certain 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 Judicial Magistrate, Special Court to try the cases under Customs Act and other Related Cases, Alandur, 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.

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

-sd/-
10/03/2021

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, SPECIAL COURT TO
TRY THE CASES UNDER THE CUSTOMS ACT AND
OTHER RELATES CASES, ALANDUR.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE SPL. PUBLIC PROSECUTOR (DRI CASES),
HIGH COURT OF MADRAS, CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

5 THE UNION OF INDIA,
DIRECTORATE OF REVENUE INTELLIGENCE, 27,
ADARSH TOWERS G.N.(CHETTY) ROAD, T.NAGAR,
CHENNAI - 17.

+1 CC to M/S.M.MATHANRAJ Advocate on payment of necessary
charges SR.NO.3126

CRL OP.3710/2021

Date :10/03/2021

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