

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.3880 of 2021

1. Shafi

2. Noorullah

... Petitioners

Vs.

State Rep. by

The Inspector of Police,

Kolathur Police Station,

Chennai Dt.

(Crime No.03 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.03 of 2021 on the file of respondent police.

For Petitioners : Mr.D.Dayalan

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

O R D E R

(The case has been heard through video conference)

Totally, there are five accused and the petitioners are arrayed as A3 and A5. The petitioners, who were arrested and remanded to judicial custody on 06.01.2021 for the offence punishable under Sections 8(c) and 20(b)(ii)(B) of Narcotic Drugs and Psychotropic Substances Act, 1985 in Crime No.03 of 2021, seeks bail.

2. The case of the prosecution is that on secret information about selling of ganja, the respondent police went to the scene of occurrence and found that the petitioners are selling ganja and on search, they found that the petitioners are in possession of 7 ¼ kgs. of ganja in a gunny bags. After following mandatory requirements, the search was conducted, contraband was seized and the petitioners were arrested on 06.01.2021. Now, seeking bail, the present petition has been filed. Now it is stated that all the other accused were arrested and they are in judicial custody.

3. The learned counsel appearing for petitioners would submit that totally, there are five accused and the petitioners are A3 and A5. He would submit that the allegation in the F.I.R. is that they have jointly found in possession of 7.5 kgs. of ganja and the respondent police also did not follow the procedure while seizing the contrabands and they are in jail for more than one month. He would also submit that they are innocent persons and they are no way connected with the offence as alleged in the complaint. He would submit that they have been falsely implicated in the present case. Hence, he prayed to grant bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would vehemently oppose this petition on the ground that all the five accused are hand in glove in selling ganja and the respondent police after following the mandatory requirements, had seized the contrabands and arrested all the accused. She would submit that there is no previous case pending against the petitioners, and the investigation is almost completed. Hence, she opposed to grant bail to the petitioners.

5. Taking into consideration of the fact that, totally there are five accused, all the accused persons were jointly found in possession of 7 ¼ kgs. of ganja, which is in-between quantity. Now, it is also alleged that the respondent police did not follow the mandatory requirements while seizing the contrabands. Considering the fact that the investigation is almost completed, there is no bad antecedents against the petitioners, and also considering the period of incarceration suffered by the petitioners for more than a month, 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 XIII Metropolitan Magistrate, Egmore, 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 petitioners, on their release from prison, shall report before the respondent police daily at 10.30 a.m. until further orders ;

(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/-
26/02/2021

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 METROPOLITAN MAGISTRATE NO.XIII,
EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
KOLATHUR POLICE STATION,
CHENNAI DISTRICT.

+1CC to M/S.D.DAYALAN Advocate on payment of necessary charges
SR NO.2428

CRL OP.3880/2021

Date :26/02/2021

MK:01/03/2021