

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.04.2021

CORAM :

THE HON'BLE MR. JUSTICE M.DHANDAPANI

CrI.O.P.No.4194 of 2021

Rahamad Nisha

... Petitioner

Vs.

The Deputy Superintendent of Police,
NIB.CID Police, Chennai
(Cr.No.28 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to release the on bail in C.C.No.144 of 2020 on the file of the Principal and Spl. Sessions Judge NDPS Court in Crime No.28 of 2021 on the file of the Deputy Superintendent of Police in the NIB CID Crime Police, NIB CID, at Chennai.

For Petitioner : Mr.M.Hussaini Basha

For Respondent : Mr.M. Prabavathi,
APP

O R D E R

(The case has been heard through video conference)

Petitioner, who was arrested and remanded to judicial custody on 09.06.2020 for the offence punishable under Section 8(c) r/w 20(b)(ii)(c), 25, 27A, 29(1) of NDPS Act, 1985 in Crime No.685 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner along with other accused were travelling in an auto and 22 Kgs., of ganga was seized from the said auto pursuant to which the above case has been registered, in which the petitioner herein has also been arrayed as an accused.

3. The learned counsel for the petitioner submits that the petitioner was only an occupant of the auto and it was only the other accused who were carrying the contraband and the petitioner has nothing to do with the alleged offence. He further submits that the petitioner has been in judicial custody for more than 262 days. Hence he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent submits that the petitioner was travelling in the auto along with other accused and 22 kgs of ganja has been seized from the occupants of the said auto. She further submits that there is no previous case pending against the petitioner. However, as investigation is still going on, she vehemently opposed of grant bail to the petitioner.

5. The contraband, viz., 22 Kgs., of ganja had been seized from the auto in which the petitioner was also one of the occupant. True that investigation is going on and that the petitioner had been in judicial custody for a period of 262 days. In the above circumstances, considering the fact that the petitioner is said to be an occupant of the auto and that entire contraband had been seized and also taking into consideration the period of incarceration of the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

6. 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 II Metropolitan Magistrate Court at Egmore, Chennai and on further conditions that:

(a) 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;

(b) the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.

(c) the petitioner shall not commit any offences of similar nature;

(d) the petitioner shall not abscond either during investigation or trial;

(e) 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];

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-

07/04/2021

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 II METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI

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

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE DEPUTY SUPERINTENDENT OF POLICE,
NIB CID POLICE, CHENNAI

5 THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN,
PUZHAL, CHENNAI

CC to M/S.M.HUSSAINI BASHA Advocate on payment of necessary charges SR.NO. 4506

CRL OP.4194/2021

Date :07/04/2021

rvr 08/04/2021

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