

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.05.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.9200 of 2021

1.Rajagopal Ravikumar
2.Karaka Nageswara Rao

... Petitioners/Accused Nos.1 & 2

Vs.

The State Rep. By
The Inspector of Police,
D-5, Marina Police Station,
Chennai.
(Crime No.799 of 2020)

... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioners on bail in FIR No.512 of 2020 in Cr.No.799 of 2020 pending before the Respondent Police.

For Petitioners : Mr.A.Manojkumar

For Respondent : Mr.E.Rajthilak
Government Advocate (CrI side)

ORDER

The petitioners who were arrested on 26.11.2020 and remanded to judicial custody for the offences under Sections 8(c) r/w 20 (b) (ii) (c) of NDPS Act, 1985 in Crime No.799 of 2020, on the file of the respondent police, seek bail.

2. The case of the prosecution is that the petitioners were found in possession of 22 Kgs of ganja and that they were arrested and remanded to judicial custody on 26.11.2020.

3. The learned counsel appearing for the petitioners would submit that the petitioners did not involve in the alleged offences and a false case has been foisted against them and further submitted that the petitioners are ready to abide by any condition that may be imposed by this Hon'ble Court and prays to enlarge the petitioners on bail.

4. Learned Government Advocate (CrI. Side) appearing for the respondent submits that the petitioners were found in possession of 22 Kgs of ganja, which is a commercial quantity as prescribed under the NDPS Act and, therefore, bail, as sought for by the petitioner cannot be granted in view of the bar u/s 37 of the NDPS Act.

5. This Court paid its careful consideration to the submissions advanced by the learned counsel on either side and perused the materials available on record.

6. According to the respondent, the contraband seized from the petitioners is commercial quantity and, therefore, the petitioners are not entitled for bail u/s 37 of the NDPS Act. Though it is countered by the petitioners, it is to be pointed out that the said fact requires to be established at the time of trial and it cannot be decided at the present time, while considering the case for grant of bail. Once the respondent has taken a stand that the petitioners were in possession of contraband, which is commercial quantity as per the NDPS Act, the petitioners are not entitled for bail as per the bar envisaged u/s 37 of the NDPS Act and, therefore, the prayer of the petitioner for bail cannot be acceded to.

For the reasons aforesaid, the present petition lacks merit and accordingly the same is dismissed.

-sd/-

20/05/2021

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 PRINCIPAL SPECIAL JUDGE CUM
PRINCIPAL SPECIAL COURT UNDER EC&NDPS ACT,
CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
D-5, MARINA POLICE STATION,
CHENNAI.

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

CRL OP.9200/2021

Date :20/05/2021

TA-28/06/2021

<https://hcservices.ecourts.gov.in/hcservices/>