

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.05.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.9468 of 2021

Mohameed Jalil Khan

... Petitioner

Vs.

The State Rep. By
The Inspector of Police,
NIB-CID,
Chennai.
(Crime No. 106 of 2019)

... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail in C.C.No.106 of 2020 pending before the Principal Special Court Under EC & NDPS Act, Chennai.

For Petitioner : Mr.I.Periaswamy

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

ORDER

The petitioner who was arrested on 25.10.2019 and remanded to judicial custody for the offences under Sections 8 (c) r/w 20 (b) (ii) (C) , 29 (1) NDPS Act, in Cr. No.106 of 2019, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner (the first accused) along with another accused, was found in possession of 15 Kgs of ganja (total ganja seized from both the accused is 25 Kgs) and that he was arrested along with the another accused and remanded to judicial custody on 25.10.2019.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he is no way connected with the alleged offence and that the petitioner is ready to abide by any condition that may be imposed by this Hon'ble Court and prays to enlarge the petitioner on bail.

4. Learned Government Advocate (Crl. Side) appearing for the respondent submits that the petitioner was found in possession of 15.000 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 petitioner is commercial quantity and, therefore, the petitioner is not entitled for bail u/s 37 of the NDPS Act. Though it is countered by the petitioner, 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 petitioner was in possession of contraband, which is commercial quantity as per the NDPS Act, the petitioner is 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.

7. For the reasons aforesaid, the present petition lacks merit and accordingly the same is dismissed. In view of the long period of pendency of the case, the Principal Special Court Under EC & NDPS Act, Chennai, is directed to conclude the trial as expeditiously as possible in accordance with law.

-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 COURT
UNDER EC & NDPS ACT, CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI.

4 THE INSPECTOR OF POLICE,
NIB-CID,
CHENNAI.

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

CRL OP.9468/2021

Date :20/05/2021