

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.9963 of 2021

Uday Kiran

... Petitioner

Versus

The Inspector of Police,
NIB CID,
Kancheepuram District.
(Crime No.8 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail in Crime No.8 of 2021 on the file of the respondent Police.

For Petitioner : Mr.M.Mohammed Rafi

For Respondent : Mr.E.Raj Thilak
Counsel for Government of Tamil Nadu
(Cr1 side)

ORDER

The petitioner, who was arrested on 20.02.2021 and remanded to judicial custody for the offences punishable under Sections 8(c) and 20(b)(ii)(B) of NDPS Act, 1985 in Crime No.8 of 2021 by the learned Judicial Magistrate I, Kancheepuram for transporting of 4 kgs of Ganja, seeks bail.

2. The gist of the case is that on 20.02.2021 at about 9.30, an information was received by the respondent Police, that a person carrying Ganja in his shoulder bag, was standing near Kancheepuram Bus stand. With regard to the information received, the respondent police had gone there and identified the petitioner who was shouldering a bag. On enquiry, it was found that he was carrying Ganja and produced the same from his shoulder bag and thereafter, in complying with the statutory conditions, samples were taken. Thereafter, the petitioner was arrested and taken to the judicial custody along with his bag. In this case, investigation has been completed.

3. The contention of the petitioner is that the petitioner hails from Andhra Pradesh and he has come to Kancheepuram along with others to visit the temple town of Kancheepuram and the petitioner was not consciously in a position of Ganja which is prohibitory article and he has been falsely implicated in this case. It is further contended that the petitioner is a college student and now due to the above case, he is unable to pursue his education and his future will get spoiled. The petitioner is aged about 21 years and there is every possibility that the petitioner turn to a hard criminal if he continues in detention. The petitioner hails from a respectable family and the petitioner's father is working as Publicity Assistant in the office of the Deputy Director, Public Relations Department, Government of Andhra Pradesh, Vizag and hence, he prays to grant bail.

4. The learned counsel appearing for Government of Tamil Nadu (Crl.Side) would submit that the petitioner hails from Andhra Pradesh, who came along with others, carrying Ganja and attempting to deliver the same to their contact persons in Kancheepuram. The respondent police had information and intercepted these persons who were found possessing Ganja near Kancheepuram Bus Stand and the same was recovered and the statutory procedure has been followed in this case. Investigation is completed and a charge sheet has been filed and five witnesses are listed. The case has been taken on file in CC. No.140 of 2021. He further submitted that the petitioner hails from Andhra Pradesh and if the bail is granted, the trial in the lower Court would get stalled and it cannot be completed within the stipulated time and therefore, he vehemently opposed for grant of bail to the petitioner.

5. Considering the rival submissions and a perusal of the materials, it is evident that the petitioner is a college student and he is now stemming and he is in custody only from 20.02.2021 and in this case admittedly the contraband is not a commercial quantity and it is in between quantity. The petitioner's father is a Government servant and he has given an undertaking that he would stand as surety. Further, considering the petitioner's age and educational qualification, further there is every likelihood of petitioner getting influenced by criminals and he may turn a habitual criminal if his detention is continued.

6. In view of the above and also considering the period of incarceration suffered by the petitioner and the present COVID-19 pandemic situation, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) As a surety, the petitioner's father shall produce his credentials proving that he is a Government servant in Public Relations Department, Government of Andhra Pradesh, Vizag.

(b) the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) before the Superintendent of the Central Prison, Puzhal, in which the petitioner has been confined on his release;

(c) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned Judicial Magistrate -I, Kancheepuram, within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed automatically;

(d) 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;

(e) On release the petitioner shall report before the Inspector of Police, NIB CID, Kancheepuram District daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

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

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

(h) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(i) on breach of any of the aforesaid conditions, the learned 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].

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

(ii) the petitioner shall not visit or go near the home of the victim, till the completion of Trial.

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

-sd/-
08/06/2021

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,
NO.I, KANCHEEPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
NIB CID,
KANCHEEPURAM DISTRICT.

CC to M/S.M.MOHAMMED RAFI Advocate on payment of necessary charges

WEB COPY

CRL OP.9963/2021

Date :08/06/2021

cs 09/06/2021