

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.10172 of 2021

Mohan

... Petitioner

Vs.

The State Represent by  
The Inspector of Police,  
M-5, Ennore Police Station,  
Chennai. Tamil Nadu.  
Crime No.215 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 connection with the case in Cr.No.215 of 2021 pending investigation on the file of the respondent Police.

For Petitioner : Mr.M.Mohamed Riyaz

For Respondent : Mr.A.Gopinath  
Government Advocate (Crl side)

**ORDER**

The petitioner, who was arrested on 25.03.2021 and remanded to judicial custody for the offences under Sections 8(c), 20(b)(ii)(b) of NDPS Act 1985 in Cr.No.215 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that based on the secret information received, on 25.03.2021 while the respondent police conducting search, the petitioner was found in possession of 1 Kg. 200 gms. of Ganja and the same was seized by the respondent Police and registered a case.

3. The learned counsel for the petitioner submitted that the petitioner is no way connected with the alleged offence and she has been falsely implicated in this case and the petitioner has been in jail from 25.04.2021. Therefore, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl.Side) submitted that the petitioner was found in possession of 1Kg. 200 gms. Ganja and except this case, there is five previous cases pending against him. Hence, he vehemently opposed to grant bail to the petitioner.

5. It is seen from records that during pendency of this petition, the petitioner's mother had passed away. Hence, this Court granted interim bail to the petitioner dated 19.06.2021. Due to financial issue, the petitioner has not contested the funeral rites of his mother.

6. Considering the facts and circumstances of the case and considering the period of incarceration suffered by the petitioner and seized contraband is not commercial quantity, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the Special Prison-II, Puzhal, in which the petitioner is confined and on such execution the petitioner shall be released from prison;

(c) Within a period of four weeks after the release, the petitioner shall execute a bond for Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Tiruvottiyur;.

(d) In case of any difficulty in executing the said bond along with the sureties before the concerned Magistrate within the time stipulated above, the petitioner is permitted to file appropriate petition within a period of four week therefrom before the concerned Magistrate for extension of time for executing the bond along with sureties and if any such application is filed, the concerned Magistrate shall decide on the grant of extension of time for accepting the bond and sureties in accordance with law. Failing filing of any such application within the time prescribed above, the bail granted by this Court would stand automatically vacated.

(e) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

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

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

(h) the petitioner shall not abscond 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]**; and;

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

-sd/-  
28/06/2021

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,  
TIRUVOTTIYOR

2 THE CHIEF JUDICIAL MAGISTRATE  
THIRUVALLUR. [FOR INFORMATION]

3 THE SUPERINTENDENT,  
CENTRAL PRISON-II, PUZHAI, CHENNAI

4 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,  
M-5, ENNORE POLICE STATION,  
CHENNAI, TAMILNADU.

CC to M/S.M.MOHAMED RIYAS Advocate on payment of necessary charges

CRL OP.10172/2021

Date :28/06/2021

TA-29/06/2021

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