



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.16210 of 2021

V. Radhakrishnan

... Petitioner

Vs.

The Superintendent of Customs,  
ACIU-ACC,  
New custom House,  
Meenambakkam,  
Chennai-600 027

... Respondent

**PRAYER:** Criminal Original Petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail in R.R.No.4 of 2021 in O.S.No.2 of 2021 on the file of the respondent.

For Petitioner : Mr.A.R.L. Sundaresan(Senior counsel)  
for M/s G. Gautam

For Respondent : Mr.Venkateswaran  
Special Public Prosecutor( for customs)

### ORDER

The petitioner who was arrested on 19.06.2021 and remanded to judicial custody for the offences under Section 8(c)(r/w 20(b)(ii)(B), 25 and 29(1) of the NDPS Act in R.R.No.4 of 2021 in O.S.No.2 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that based on the secret information, the respondent proceeded and examined the cargo and found 55 numbers of weighing machines and that the machines were unusually heavy and on cutting open the box they found wrapped up the contraband and in the presence of A2 they tested and found it answered positive for contraband. It is alleged that the said contraband were delivered to the petitioner/accused which had NDPS substance and quantity of contraband seized was commercial quantity. Hence, the law enforcing agency registered a case against the petitioner.



3. The learned senior counsel for the petitioner submitted that the petitioner is only the ware house owner and he is neither the owner of the contraband nor the warehouse agent and the only allegation against the petitioner he does not maintain KYC( Know your customer) Register properly so as to identify the accused. That apart the petitioner is no way connected with the alleged offence and he has been falsely implicated in this case and the petitioner has been in jail from 19.06.2021. Therefore, he prays to grant bail to the petitioner.

4. Mr.M. Venkateswaran, learned Special Public Prosecutor appearing for the respondent submitted that the summons was served to the petitioner on 05.03.2021 and in response to the said summons the petitioner appeared on 06.03.2021. He further submits that the petitioner only arranged the Airway-bill and handed over the packages to A2. He further submits that the quantity of contraband involved is of commercial quantity hence the provisions as contained under Section 37 of the NDPS Act are attracted. However, he vehemently opposed for grant of bail to the petitioner.

5. Considering the facts of the case and the fact that the petitioner is neither the owner of the contraband nor the customs agent and he has only provided shelter to A2 and the said contraband was not recovered from the petitioner and also taking note of the period of incarceration suffered by the petitioner this Court is inclined to grant bail to the petitioner with certain conditions:

6. Accordingly, the petitioner is ordered to be released on bail on his executing 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 learned Judicial Magistrate(Special Court of customs), Alandur, and on further condition that:

(a)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;

(b)the petitioner shall report before the customs office , daily at 10.30 a.m. until further orders;

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

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

(e)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;

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

-sd/-

16/09/2021

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  
(SPECIAL COURT OF CUSTOMS), ALANDUR.

2 THE CHIEF JUDICIAL MAGISTRATE  
CHENGALPATTU. [FOR INFORMATION]

3 THE SUPERINTENDENT,  
CENTRAL PRISON, PUZHAL, CHENNAI.

4 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

5 THE SUPERINTENDENT OF CUSTOMS  
ACIU-ACC, NEW CUSTOM HOUSE, MEENAMBAKKAM,  
CHENNAI 600027.

+1 CC to M/S G.GAUTAM Advocate on payment of necessary charges  
SR.NO.10173

CRL OP.16210/2021

Date :16/09/2021

RW 17/09/2021