

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Cr1.O.P.No.19541 of 2020

K.Periyandavar

... Petitioner

Vs.

The State of Tamil Nadu
Rep. by Inspector of Police
Tiruppur North Police Station
Tiruppur District.
(Crime No.1213 of 2019)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1213 of 2019 pending investigation on the file of the Respondent.

For Petitioner : Mr.M.Jagadeeshpandian

For Respondent : Mrs.M.Prabavathi
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

Totally, there are three accused in this case and the petitioner is arrayed as 3rd accused. The petitioner, who was arrested and remanded to judicial custody on 27.11.2019 for the offence punishable under Sections 8(c), r/w 20(b)(ii)(C) and 25 of NDPS Act in Crime No.1213 of 2019, seeks bail.

2. The case of the prosecution is that on 27.11.2019, based on a secret information, the respondent police had waylaid the petitioner while he was driving a motorcycle along with A2, on suspicious search, both of them are said to have found in possession of ganja and A2 said to have found in possession of 10.500 grams of ganja and the petitioner, A3, is also said to have found in possession of 10.500 grams of ganja. After following due procedures, both of them were arrested. Based on the confession of A2 and A3, the respondent police seized ganja from A1 and he was also arrested. In the said circumstances, the criminal case was registered against the petitioner, arrested him, and now the present petition has been filed seeking for bail.

3. Mr.M.Jagadeeshpandian, learned counsel appearing for the petitioner would submit that admittedly, the petitioner is found in possession of 10.500 grams ganja, which is less than a commercial quantity. That apart, he would submit that while conducting search, the respondent police did not follow the mandatory requirements. He

would also submit that the petitioner is in jail for more than two years. Hence, he seeks for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor would oppose to enlarge the petitioner on bail on the ground that A2 and A3 were found in possession of 21 kgs. of ganja totally, both of them are having possession of 10.500 grams each, which is higher than commercial quantity. Hence, Sec.37 of NDPS Act will attract and the respondent police also followed the mandatory requirements. She would further submit that A1 in this case is having 13 previous cases, A2 is having 9 previous cases and so far as this petitioner is concerned, he is not having bad antecedents. Hence, she opposed to grant bail to the petitioner.

5. Taking into consideration of the fact that admittedly, the petitioner was found in possession of 10.500 grams of ganja, which is less than the commercial quantity. On investigation, it was found that he other accused A1 and A2 are having bad antecedents. So far as this petitioner is concerned, he is not having bad antecedents and he is in jail for more than one year, now the investigation is over and the matter is pending for framing of charges. Therefore, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute 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 Additional District and Sessions Judge / Special Court for EC and NDPS Act cases, Coimbatore, and on further conditions that:

(b) 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;

(c) the petitioner, on his release from prison, shall report before the Trial Court on all hearing dates without fail;

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

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

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

(g) on breach of any of the aforesaid conditions, the learned Judicial 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

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

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

-sd/-

25/01/2021

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 ADDITIONAL DISTRICT
AND SESSIONS JUDGE/SPECIAL COURT
FOR EC AND NDPS ACT CASES,
COIMBATORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
TIRUPPUR NORTH POLICE STATION,
TIRUPPUR DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

CC to M/S.M.JAGADEESH PANDIAN Advocate on payment of necessary charges

CRL OP.19541/2020

Date :25/01/2021

RVR 29/01/2021