

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2021

CORAM

THE HONOURABLE Mr.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.20307 of 2020

Samu Muthaiya

... Petitioner

Versus

State Rep. by
Inspector of Police,
NIB-CID,
Coimbatore.
(Crime No.202 of 2019)

... Respondent

PRAYER:- Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge petitioner on bail in Crime No.202 of 2019, pending on the file of the respondent police.

For Petitioner : Mr.R.Chakkaravarthy

For Respondent : Mr. C.Iyyappa Raj,
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 25.12.2019 for the offences under Sections 8(c) r/w 20 (b) (ii) (c) of NDPS Act in Crime No.202 of 2019 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner was found in possession of 24 Kgs of Ganja in 2 bags. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner has no previous case pending against him and that the case of the prosecution itself is a false one and would submit that a single person cannot carry 2 bags containing 24 Kgs of Ganja. He would further submit that the petitioner was arrested on 25.12.2019 and he has been in judicial custody for more than a year. He would further submit that after completion of investigation the respondent has filed the final report and the case has been taken up in C.C.No.40 of 2020, on the file of the Special Court for

Essential Commodities Act, Cases, Coimbatore. Hence, he prays for grant of bail to the petitioner.

4. Per Contra, the learned Additional Public Prosecutor appearing for the respondent would vehemently oppose stating that it is a case where the petitioner was found in possession of commercial quantity of Ganja (24 Kgs). He would submit that the investigation has been completed and the case has been taken up in C.C.No.40 of 2020 on the file of the learned Special Judge for NDPS Cases, Coimbatore. He would further submit that there are totally 7 witnesses in this case and that P.W.1 has been examined and the case stands posted for further examination of other witnesses on 05.01.2021. He would submit that since it is being the case of possession of commercial quantity of Ganja, the petitioner has to satisfy the Court with regard to Section 37 of NDPS Act and thereby, he would oppose for grant of bail to the petitioner.

5. It is seen that it is the case where the petitioner was found in possession of 24 Kgs of Ganja which is a commercial quantity. Further the ground raised by the petitioner is that the petitioner is in judicial custody for more than a year and that there is no possibility for a person to carry 24 Kgs of Ganja in 2 bags.

6. It is made clear that the ground raised by the petitioner that there is no possibility for a person to carry 24 Kgs. of Ganja in 2 bags, is a matter for trial. In Satpal Singh Vs. State of Punjab reported in 2018 13SCC 813, the Hon'ble Supreme Court has held that in a case of commercial quantity under Section 37 of NDPS Act, the Court must be satisfied that;

i) there are reasonable grounds for believing that the person is not guilty of the alleged offence and

ii) he is not likely to commit any offence while in bail.

7. In the opinion of this Court, the petitioner has not satisfied that there are reasonable grounds for believing that he is not guilty of the offence. In view of the above, this Court is not inclined to grant bail to the petitioner.

8. It is made clear that the observations made are for deciding the application for bail alone and it will not have any bearing on the trial of the case.

9. Since, it is stated by the learned Additional Public Prosecutor that out of the 7 witnesses, PW-1 has been examined, the trial Court is directed to expedite the trial and complete the trial preferably within a period of six months from the date of this order.

10. With the above observations, the Criminal Original Petition is disposed of.

-sd/-

04/01/2021

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 SPECIAL COURT FOR ESSENTIAL
COMMODITIES ACT CASES, COIMBATORE.

2 THE INSPECTOR OF POLICE,
NIB-CID, COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

CC to M/S.R.CHAKKARAVARTHY Advocate on payment of necessary charges

सत्यमेव जयते

CRL OP.20307/2020

Date :04/01/2021

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MN-22/01/2021