



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2021

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Cr1.O.P.No.20056 of 2021

Abdul Siddiq

... Petitioner

Vs.

The Deputy Superintendent of Police,
NIB.CID Police, Chennai.
(Cr.No.28 of 2020)

... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to release the petitioner on bail in C.C.No.144 of 2020 on the file of the Principal and Special Sessions Judge, NDPS Court in Crime No.28 of 2021 on the file of the Deputy Superintendent of Police, NIB CID, Chennai.

For Petitioner : Mr.M.Hussaini Basha

For Respondent : Mr.V.J.Priyadarshan
Government Advocate (Cr1. Side)

ORDER

The Petitioner, who was arrested and remanded to judicial custody on 09.06.2020 for the offence punishable under Sections 8(c) r/w. 20(b)(ii)(c), 25, 27A, 29(1) of Narcotic Drugs and Psychotropic Substances Act, seeks bail.

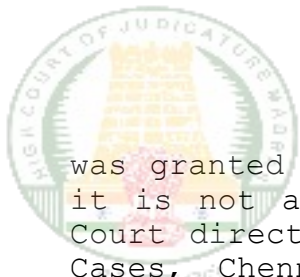
2. The learned Counsel for the Petitioner submitted that as per the prosecution case, the petitioner/A-2 transported 22 Kgs of Ganja along with other accused, by an auto rickshaw bearing Registration No.TN-07-BT-3713 which was intercepted by the then respondent police near NSK Statute at Kotturpuram and the contraband was seized. He further submitted that totally there are nine accused in this case. However, nothing was recovered from Accused 2, 3 and 4. As per the confession of A-1, the police arrested A-5 to A-9 and seized 6 Kgs of Ganja from A-5 to A-7 and 5 Kgs of Ganja from A-8 and A-9, thus, totally 33 Kgs of Ganja was seized from the accused in this case. The learned Counsel for the petitioner submitted that the auto rickshaw alleged to have been used by the accused to transport the Ganja had not been seized as per the FIR and therefore, this is a fabricated case. He further submitted that investigation was completed and



charge sheet has been filed in C.C.No.144 of 2020 and now, most of the accused have been enlarged on bail viz., A3 was enlarged on bail by the Hon'ble High Court in Crl.O.P.No.4194 of 2021 and other accused were enlarged on bail by the learned Principal and Special Sessions Judge, NDPS Cases, Chennai viz., A-5 was enlarged on bail in Crl.M.P.No.1590 of 2020, dated 29.10.2020; A-6 and A-7 were enlarged on bail in Crl.M.P.No.364 of 2020, dated 09.09.2020 and A-8 and A-9 were enlarged on bail in Crl.M.P.No.289 of 2020, dated 14.08.2020. Also, he submitted that this petitioner/A2 was granted interim bail by this Court in Crl.O.P.No.16959, dated 13.09.2021 on condition to surrender before the Central Prison, Puzhal, Chennai on 15.09.2021 on or before 5.30 p.m. and in compliance of the same, the petitioner surrendered before the Central Prison, Puzhal, Chennai at 4.30 p.m. on 15.09.2021 even prior to the time stipulated. Moreover, the petitioner is in jail for more than 507 days. As the father of the petitioner died, he has to take care of his aged mother and hence, the learned Counsel for the petitioner seeks to release the petitioner on bail.

3.Mr.V.J.Priyadarshan, learned Government Advocate (Crl. Side) vehemently opposed grant of bail to the petitioner stating that this petitioner has one previous case of similar nature which is pending against him in C.C.No.33 of 2019. He further submitted that the police seized 22 Kgs of Ganja from A-1 to A-4, 6 Kgs of Ganja from A-5 to A-7 and 5 Kgs of Ganja from A-8 and A-9, thus, totally 33 Kgs of Ganja was seized from the accused in this case. The submission of the learned Counsel for the petitioner that the auto rickshaw alleged to have been used by the accused to transport the Ganja had not been seized as per the FIR is vehemently opposed and rebutted by the learned Government Advocate (Crl. Side) stating that Form-95 is available in the Case Diary File and the auto rickshaw bearing Registration No.TN-07-BT-3713 had been seized as Property No.2. He further objected the submission of the learned Counsel for the petitioner that most of the accused were enlarged on bail stating that A-3-Rahamad Nisha was enlarged on bail by this Court during COVID period, as the then Public Prosecutor had submitted that she does not have previous case. The accused No.1, 2 and 4 are still in jail. Further, A-5, who was granted bail, subsequently not attended Court and absconded. Hence, warrant was issued. A special team was also formed to secure A-5. He further submitted that charge sheet had been filed and the Special Court is ready to proceed with the trial. If the petitioner is enlarged on bail, he is likely to abscond and the trial will be stalled. He further undertakes to dispose of the case within a shortest time after securing the absconded Accused No.5.

4.Considering the vehement objection of the learned Government Advocate (Crl. Side) that a previous case is pending against the petitioner and the the bail granted to A-3-Rahamad Nisha is not applicable to the petitioner's case and also the fact that A-5, who



was granted bail by the Special Court for NDPS cases, had absconded, it is not a fit case for grant of bail. In the alternative, this Court directs the learned Principal and Special Sessions Judge, NDPS Cases, Chennai, to proceed with the trial at the earliest and dispose of the case within a reasonable period of three months from the date of the absconded accused is secured. If the accused is invariably jumps bail, then the learned Principal and Special Sessions Judge, NDPS Cases, Chennai, can split up the case against the other accused who are in jail and for those accused, the witnesses can be examined within a period of three months and dispose of the case at the earliest.

In the result, this Criminal Original Petition is dismissed.

-sd/-

29/10/2021

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 PRINCIPAL AND SPECIAL SESSIONS JUDGE,
SPECIAL COURT FOR NDPS CASES, CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE DEPUTY SUPERINTENDENT OF
POLICE, NIB.CID POLICE,
CHENNAI

4 THE SUPERINTENDENT,
CENTRAL PRISON FOR MEN,
PUZHAL, CHENNAI

CC to M/S.M.HUSSAINI BASHA Advocate on payment of necessary charges

CRL OP.20056/2021

Date :29/10/2021

APN 02/11/2021