

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

CrI.O.P.No.20793 of 2020

Bhuvaneswaran

... Petitioner

Vs.

The State of Tamil Nadu
Rep. by Inspector of Police
D-5 Marina Police Station
Chennai.
(Crime No.683 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.683 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr.M.P.Yuvaraj

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 A1. The petitioner, who was arrested and remanded to judicial custody on 05.09.2020 for the offence punishable under Sections 8(c), r/w 20(b)(ii)(C) and 25 of NDPS Act, in Crime No.683 of 2020, seeks bail.

2. The case of the prosecution is that on 05.09.2020, based on a secret information that a person is transporting ganja, the respondent police had waylaid the petitioner, who was driving a Tata Indica car, and found that he was in possession of ganja. On seeing the police, the petitioner was trying to escape from the scene of occurrence, the respondent police seized the bag after following mandatory requirements and he was found in possession of 14 kgs. of ganja. After completing the legal formalities, he was arrested and on his confession, the respondent police came to know that A2 in this case, Murugesan, who is owner of a car was involved in selling ganja and he has given 14 kgs. of ganja to the petitioner. Subsequently, based on his confession, Murugan and another colleague Ranjith Kumar, who was arrayed as A3 was arrested and another 29 kgs. of ganja was seized from Ranjithkumar. In the said circumstances, the criminal case has been registered against the petitioner and now the present petition has been filed seeking for bail.

3. The learned counsel appearing for the petitioner would submit that the petitioner is acting driver by profession, and he was engaged by A2 to drive his car for going his relative house, and he was asked to wait for him. He would submit that without knowing the fact, that ganja was kept in the car, he had driven the car and he is not having any bad antecedents. He would submit that the petitioner, only a driver of the car, he has been falsely implicated in this case. He would submit that he is an innocent person and he is no way connected with the offence as alleged in the complaint. He would also submit that the petitioner is in jail for more than four months. Hence, he seeks to grant bail to the petitioner.

4. The learned Additional Public Prosecutor would oppose to enlarge the petitioner on bail on the ground that the petitioner is the driver by profession and he has transported 14 kgs. of ganja belong to A2. She would submit that based on his confession, A2 and A3 were arrested and further 49 kgs. of ganja was seized. Thus, totally, 63 kgs of ganja was seized from the accused, which is commercial quantity. She would submit that now the investigation is almost over, the final report was also filed, the matter was taken cognizance against the accused persons and the same is posted for framing of charges, and opposed to grant bail to the petitioner.

5. On perusal of records, it is seen that the petitioner was a driver of the car, while he was driving the car, the respondent police arrested him and on suspicious search, he was found in possession of 14 kgs. of ganja. Accordingly, he was arrested and subsequently, based on his confession statement stating that, the contraband was handed over to him by A2 and he was asked to take the bag and asked him to wait for him. In the said circumstances, the respondent police arrested the petitioner and subsequently, A2 and A3 were arrested and from them, another 49 kgs. of ganja was seized from them. So far as this petitioner is concerned, he was found in possession of 14 kgs. of ganja and admittedly, it was handed over to him by A2, which is less than commercial quantity. He has no bad antecedents, he is in jail for more than four months and now the investigation is also 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 Metropolitan Magistrate No.II, Egmore, Chennai, 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 5560];

(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 NO.II METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE,
CHENNAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
D-5 MARINA POLICE STATION,
CHENNAI.

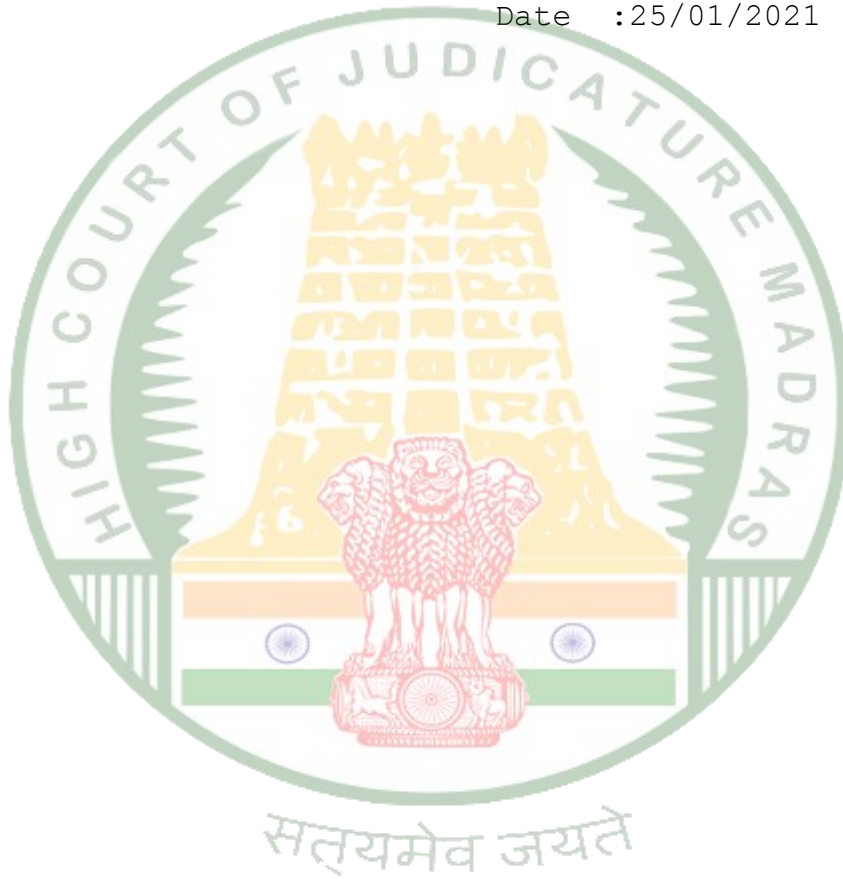
5 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAI, CHENNAI

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

CRL OP.20793/2020

Date :25/01/2021

RVR 29/01/2021



WEB COPY