



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2021

CORAM:

THE HON'BLE MR.JUSTICE S.SATHI KUMAR

Crl.O.P.No. 23975 of 2021

Abinesh

... Petitioner

Vs.

State represented by
The Inspector of Police,
NIBCID Police Station,
Chennai.

Crime No.10 of 2020.

... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail in Crime No.10 of 2020 on the file of the respondent police.

For Petitioner : Mr.G.Murugendran

For Respondent : Mr.V.J.Priyadarsana
Government Advocate (Crl. Side)

ORDER

The petitioner who was arrested on 29.02.2020 and remanded to judicial custody for the offences punishable under Sections 8(c), 20 (b) (ii) (C) 29 (1) of NDPS Act in Cr.No.10 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was found in possession of 8 Kgs of Ganja. Hence the complaint.

3. Mr.G.Murugendran, the learned counsel for the petitioner invited attention of this Court to the earlier Order of this Court dated 26.05.2021 on which date, the learned Government Advocate (Crl. Side) had objected stating that the investigation is still pending. Further, the learned counsel for the petitioner submitted that as on date charge sheet had been filed before the competent Court.



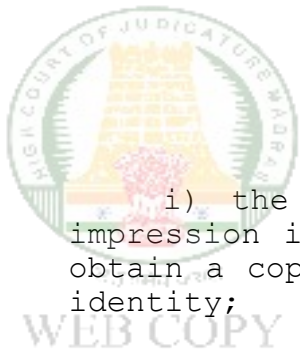
4.Mr.V.J.Priyadarsana, the learned Government Advocate (Crl. Side) admits the same, but states that if the petitioner is released on bail, there is a likelihood of the petitioner absconding. There are only five witnesses in this case. Therefore, the trial can be conducted and disposed of during the incarceration of the Accused. Hence, the learned Government Advocate vehemently objects to release the petitioner on bail.

5.In reply, the learned counsel for the petitioner further submitted that since earlier petition was dismissed on the ground that investigation was pending, there is no impediment as on date. Not only that, there is no previous antecedents and the quantity involved is not commercial quantity. Further, he undertakes that the petitioner will co-operate with the trial. He also relies on the order of this Court in Crl.O.P.No.8654 of 2021 dated 09.06.2021.

6. On perusal of the order by His Lordship G.K.ILANTHIRAIYAN, in Crl.O.P.No.8654 of 2021 dated 09.06.2021, it is found in paragraph No.5 "There are totally four accused, in which the petitioner is arrayed as first accused. The petitioner was found in possession of ganja weighing 22 Kg, which is commercial in quantity. Therefore, Section 37 of NDPS Act is attracted as against the petitioner and the petitioner is also failed to show any single ground to satisfy the twin condition as contemplated under Section 37 of NDPS Act. The entire contraband was conveyed from the petitioner. In so far the other accused persons are concerned they were in possession of below commercial quantity and the Court below considered and granted bail to them. That apart, the respondent completed the investigation in Crime No.119 of 2019 and also filed their final report. The same has been taken cognizance in C.C.No.81 of 2020 on the file of the I Additional Special Court for NDPS Act, Chennai and it is pending for trial. As far as the petitioner is concerned, he was found in possession of 22 Kg, as such this Court is not inclined to grant bail."

7.In this case, the petitioner is alleged to have transported 8 Kg of Ganja which is less than the commercial quantity. Therefore, this Court is inclined to grant bail to the petitioner subject to the following conditions:

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, one of them should be a blood relative of the Accused, each for a like sum to the satisfaction of the learned Principal Special Judge, Principal Special Court under EC&NDPS Act, Chennai.



i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

ii) the petitioner shall report before the trial Court on the first working day of every month till the case is disposed off.

iii) the petitioner shall not tamper with evidence or witness.

iv) the petitioner shall not abscond during trial.

v) 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].

vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

8. He shall cooperate with the trial Court for early disposal of the case. The learned trial Judge is advised to dispose of the case within three months based on priority of the cases pending before him. But till such time, the petitioner shall cooperate with the trial Court by appearing on every hearing dates.

9. If the petitioner absconds, the learned trial Judge shall cancel the bail as if the bails was granted by himself, as per the reported ruling of the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560] and disposal of the cases at the earliest.

-sd/-
23/12/2021

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.



1 THE PRINCIPAL SEPECIAL JUDGE,
PRINCIPLE SPECIAL COURT UNDER EC & NDPS ACT,
CHENNAI-600 104.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

3 THE INSPECTOR OF POLICE,
NIB-CID, POLICE STATION,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S G.MURUGENDRAN Advocate on payment of necessary
charges SR.NO.15550

CRL OP.23975/2021

Date :23/12/2021

RW 27/12/2021