



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2022

CORAM:

THE HON'BLE MRS.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.No.1228 of 2022

Ganesh @ Purushothaman

... Petitioner

Vs.

The State Rep by:
The Inspector of Police,
P-1, Pulianthope Police Station,
Chennai.
(Crime No.1169 of 2020)

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner/Accused No.4 on bail pending investigation/Trial in C.C.No.97 of 2021 on the file of the I Additional Special Judge, Special Court for Exclusive Trial of Cases under NDPS Act, Chennai, in Crime No.1169 of 2020, on the file of the respondent police.

For Petitioner : Mr.B.R.Sankara Lingam

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl side)

ORDER

The petitioner who was arrested and remanded to judicial custody on 11.02.2021 for the offences under Sections 8 (c) read with 20(b)(ii)(B), 25 and 29(1) of NDPS Act, 1985, in C.C.No.97 of 2021 on the file of the I Additional Special Judge, Special Court for Exclusive Trial of Cases under NDPS Court, Chennai.

2. Totally there are 5 accused in this case and the petitioner herein is arrayed as A4. The case of the prosecution is that on 03.10.2020 A1 and A2 were found in possession of 21kgs of ganja and A3 and A5 were found in possession of 1.5 kgs of ganja and with regard to the petitioner/A4 herein he has indulged in smuggling of 25.500 kgs of ganja. Hence, the case came to be registered against the petitioner.

3. The learned counsel for the petitioner submits that the petitioner was arrested by the respondent police on 03.10.2020 and Ganja seized from him was 1.5 Kgs. He further submits that the petitioner herein filed bail petition before this Court during the



vacation Court sitting at which time it was misrepresented by the prosecution that commercial quantity 56 Kgs was seized from him. Therefore the petition was dismissed by this Court. Subsequently, the petitioner moved the bail petition before the regular bail Court, there it was represented that the petitioner possessed 25.500 Kgs of Ganja. Now, the charge sheet is filed in which it is mentioned that Accused 1 to 3 and 5 were found in possession of 1.500 kgs ganja (each). Further the learned counsel for the petitioner submits that the final report had been laid and the case is pending trial (there is no previous case pending against this petitioner).

4. Mr.S.Vinoth Kumar, learned Government Advocate (Crl.side) submits that the petitioner along with four accused was found in possession of commercial quantity of 25kgs of ganja. He further submits that the case is numbered and ripe for trial. The case is posted on 08.03.2022 for trial.

5. The learned counsel for the petitioner intervened and submitted that it is not for trial, the petitioner is yet to engage counsel to proceed with the trial proceedings. Further, the learned counsel for the petitioner submits that subsequent to the dismissal of the bail petition in Crl.O.P.No.9641 of 2021, A3 was granted bail for possession of 1.500 gms of ganja, the same principle applies here. Therefore, the petitioner seeks bail. Considering the submission made by the learned counsel for the petitioner, the petitioner/A4 is granted bail on the same conditions.

(a) the petitioner is ordered to be released on bail on executing 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 I Additional Special Judge, Special Court for Exclusive Trial of Cases under NDPS Court, Chennai.

(b)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c) the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders;

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

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



(f) 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]; and;

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

-sd/-

04/03/2022

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 I ADDITIONAL SPECIAL JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER NDPS COURT, CHENNAI

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

3 THE INSPECTOR OF POLICE,
P-1, PULIANTHOPE POLICE STATION,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S. B.R.SANKARA LINGAM Advocate on payment of necessary charges

CRL OP.1228/2022

Date :04/03/2022

RVR 07/03/2022