



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P.No.3176 of 2022

Syed Abubakkar

... Petitioner /A-1

versus

State rep. by
The Inspector of Police
F-5, Pathirvedu Police Station,
Thiruvallur District.
(Crime No.44 of 2021)

... Respondent /Complainant

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C., praying to enlarge the petitioner on bail pending investigation in Crime No.44 of 2021 on the file of the respondent police.

For Petitioner : Mr.S.Mohamed Ansar

For Respondent : Mrs.G.V.Kasthuri

Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 04.03.2021 for an offence punishable under **Sections 8(c), 20(b)(ii)(C) and 29(1) of NDPS Act, 1985** in Crime No.44 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that when the respondent police was involved in a vehicle checkup near Pommajikulam Toll Plaza, the petitioner herein and other person were found in possession of 20 Kg of Ganja in their bag. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. It is the specific submission of the learned counsel for the petitioner that the petitioner is in judicial custody from 04.03.2021 onwards and also he is a first time offender. Hence, he prays for bail.



4. The learned Additional Public Prosecutor appearing for the respondent police raised objection stating that the nature of the offence committed by the petitioner is so serious. However, she admits that as of now, after investigation charge sheet has been filed and the same was assigned with case number C.C.No.130 of 2021 on the file of the learned Special Judge, I Additional Special Court for Exclusive Trial of cases under NDPS Act, Chennai.

5. Considered the submissions made by the learned counsel appearing on either side. The respondent police registered a case against the petitioner for the offence punishable under Section 8(c), 20(b)(ii)(C) and 29(1) of NDPS Act, 1985. It is the case of the prosecution that during the relevant point of time, the petitioner possessed 20Kg of cannabis. The quantity of contraband possessed by the petitioner would create a doubt over the case of the prosecution. However, the same is a matter for trial. In the said circumstances, as of now, investigation has completed. Further, it was reported that the petitioner is not having any previous bad antecedents.

6. Therefore, taking note of all the above said aspects into consideration and also for the reason that the petitioner has no bad antecedents and further the petitioner is in incarceration from 04.03.2021 onwards, this Court is inclined to grant bail to the petitioner subject to certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions;

(a) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Special Judge, I Additional Special Court for Exclusive Trial of cases under NDPS Act, Chennai;

(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 is directed to appear daily before the trial Court viz., I Additional Special Court for Exclusive Trial of cases under NDPS Act, Chennai, at 10.30 a.m. until further orders;

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

(e) 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];

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

-sd/-
24/02/2022

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

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
F-5, PATHIRVEDU POLICE STATION,
THIRUVALLUR DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON-II, PUZHAL, CHENNAI.

+1 CC to M/S.S.MOHAMED ANSAR Advocate on payment of necessary charges SR.NO.2873

CRL OP.3176/2022

Date :24/02/2022

TA-25/02/2022