



CRL.O.P.No.5020 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.NO.5020 of 2022

Ashok Kumar

.....Petitioner/Accused-1

Vs

The State Rep.By
Inspector of Police
Mettupalayam Circle Police Station
Puducherry District
Crime No.74 of 2021

....Respondent/Complainant

PRAYER: Petition filed under Section 439 of Cr.P.C to enlarge on bail in Crime No.74 of 2021 on the file of the Inspector of Police, Mettupalayam Circle Police Station, Puducherry District.

For petitioner : M/s. Swamisubramanian

For Respondent : Mr. V. Balamurugane,
Public Prosecutor for Puducherry



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CRL.O.P.No.5020 of 2022

ORDER

The petitioner, who was arrested and remanded by the respondent police for the alleged offence under Section 20 (b)(ii)(b) of NDPS Act r/w.8(c) of NDPS act 1985 in Crime No.74 of 2021, seeks bail and this is the fourth bail petition filed by the petitioner.

2.The case of the prosecution is that the petitioner along with other accused persons were found in possession of 1.700 Kgs of Ganja to be sold to the General Public and 5 Kg of Ganja was recovered from this petitioner. Hence the complaint.

3.The learned counsel appearing for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. Further on earlier occasion, the petitioner's bail petition was dismissed by this Court in Crl.O.P.No.18908 of 2021 on the ground that the quantity of ganja involved in this case is of commercial quantity, however, the quantity of about 1.700 kgs is not a commercial quantity. Hence he prays for grant of bail.



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4.The learned Public Prosecutor fairly conceded though the petitioner was found in possession of 1.700 kgs of ganja, however, quantity of about 5 Kgs of ganja was recovered from the petitioner's residence.

5. Considering the facts and circumstances of the case, taking into consideration the period of incarceration suffered by the petitioner and also the fact that the quantity involved in the present case is not a commercial quantity, further, charge sheet is filed and there being a change of circumstance, this Court is inclined to grant bail to the petitioner.

6.Accordingly, the petitioner is directed to be enlarged on bail on condition that the petitioner shall 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 Special Judge (III Additional Sessions Judge), Puducherry and on further condition that:

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



CRL.O.P.No.5020 of 2022

(b) the petitioner shall appear before the concerned court on every Monday, until further orders;

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

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

(e) 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;

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

09.03.2022

NHS
Index: Yes/No
Internet: Yes
Speaking/Non-Speaking order



CRL.O.P.No.5020 of 2022

WEB COPY To

1. The State Rep.By
Inspector of Police
Mettupalayam Circle Police Station
Puducherry District
2. The Special Judge (III Additional Sessions Judge),
Puducherry.
3. The Public Prosecutor (Puducherry)
High Court, Madras.
4. The Superintendent,
Central Prison,
Puducherry.



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CRL.O.P.No.5020 of 2022

M.DHANDAPANI, J.
NHS

Crl.O.P.NO.5020 of 2022

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