



WEB COPY



Crl.OP.No.19488 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2022

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.OP.Nos.19488 & 20656 of 2022

1. A.S.Allaptichai

2. A.Yosuf ... Petitioners in Crl.O.P.No.19488 of 2022

Dinesh ... Petitioner in Crl.O.P.No.20656 of 2022

Vs.

Union of India represented by its,
The Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai - 77.

... Respondent in both the Crl.O.P.s

Common Prayer: Criminal Original Petitions filed under Section 439 of Cr.P.C., pleased to enlarge the petitioners/accused on bail pending investigation in R.R.No.30 of 2022 in NCB.F.No.48/1/08/2022-NCB/MDS on the respondent herein.

For Petitioners : Mr.R.Rajan
for Mr.J.Samiullah (In Crl.O.P.No.19488 of 2022)
for Ms.A.Rekha (In Crl.O.P.No.20656 of 2022)

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor (In both Crl.O.P.Nos.)



WEB COPY



Crl.OP.No.19488 of 2022

COMMON ORDER

The petitioners, who were arrested and remanded to judicial custody on 30.05.2022 for the offences punishable under Sections 9(A) r/w 21(C), 23(C), 28 & 29 of the NDPS Act, seek bail.

2. The case of the prosecution is that on receipt of the specific information, Officers of the Narcotics Control Bureau, Chennai Zonal Unit have made a search and seized 2.250 kilograms of Pseudoephedrine from a courier parcel destined to Australia at DHL Courier Service, Guindy, Chennai and in which, one Mathusudhanan, resident of Anna Salai, Chennai was found to be the consignor. During the investigation, it was found that the parcel was received by DHL Courier through one Express courier and on further enquiry, it was found that one Jayaraj, Proprietor of Express Courier Service, Kotturpuram, Chennai has forwarded the said parcel to DHL. On enquiry, he informed that one Karthik, working at Dr.Mehta's Hospital, Chennai had booked this parcel through one Shiva @ Dinesh (Petitioner in Crl.O.P.No.20656 of 2022), and that he was not aware of the contents of the parcel. He has also confirmed that the said Karthik has booked such parcel



Crl.OP.No.19488 of 2022

on a previous occasion also. Immediate follow up, resulted in the apprehension of the petitioners and the other accused. They were summoned and their statements were recorded under Section 67 of the NDPS Act, 1985 and on their voluntary statements, material objects were seized and they were arrested and remanded to judicial custody.

3. Mr.R.Rajan, the learned counsel appearing for the petitioners would submit that on receipt of the summons issued by the respondent, the petitioners have appeared before the respondent and they were forced to give the alleged statements which were recorded under Section 67 of the NDPS Act. He would also submit that there is no recovery from the petitioners and he would submit that the alleged substance Pseudoephedrine is only a controlled substance and not Narcotics. The learned counsel for the petitioner also stated that investigation has been completed by the respondent and the complaint has been filed before the learned Principal Special Court under EC and NDPS Act and it is yet to be taken on file. He would further submit that the petitioners have permanent abode and are prepared to abide by any stringent condition imposed by this Court. Hence, he prays for grant of bail to the petitioners.



Crl.OP.No.19488 of 2022

4. Mr.N.P.Kumar, the learned Special Public Prosecutor appearing for the respondent has filed detailed counters in both the cases. He would submit that the petitioners along with the other accused attempted to smuggle 2.250 kilograms of Pseudoephedrine to Australia, through courier services. During examination, it was also found that the second accused has involved in such offence in previous occasion also and the petitioners have indulged in this activity for the first time. He would also submit that investigation has been completed and the complaint has been filed before the learned Principal Special Court under EC and NDPS Act and it is yet to be taken on file. He would further submit that the alleged substance Pseudoephedrine is a controlled substance only. However, he vehemently opposed to grant of bail to the petitioners.

5. Heard the learned counsel appearing for the petitioners and the learned Special Public Prosecutor appearing for the respondent and perused the materials available on record.

6. Admittedly, the alleged substance Pseudoephedrine is only a controlled substance. Further, the investigation has been completed and the



Crl.OP.No.19488 of 2022

complaint has been filed before the learned Principal Special Court under EC and NDPS Act and it is yet to be taken on file. Taking into consideration the facts and circumstances of the case and that there is no recovery from the petitioners and they were implicated on statements under Section 67 of the NDPS Act and also considering their period of incarceration from 30.05.2022, this Court is inclined to grant bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail on their executing a bond for a sum of **Rs.50,000/- (Rupees Fifty thousand only)** with **two sureties** [out of which one surety should be a blood surety], each for a like sum to the satisfaction of the **learned IX Metropolitan Magistrate, Saidapet**, and on further conditions that:

[a] 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;

[b] the petitioners shall report before the learned Judge, Principal Special Court under EC and NDPS Act, Chennai, on all working days at 10.30 a.m. until further orders;

[c] the petitioners shall not abscond either during trial;



Crl.OP.No.19488 of 2022

[d] the petitioners shall not tamper with evidence or witness during trial;

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 abscond, a fresh FIR can be registered under Section 229A IPC.

06.09.2022

ham



Crl.OP.No.19488 of 2022

To

WEB COPY

1. The IX Metropolitan Magistrate, Saidapet.
2. The Principal Special Court for EC and NDPS Act,
Chennai.
3. The Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai - 77.
4. The Superintendent,
Central Prison,
Puzhal, Chennai.
5. The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.OP.No.19488 of 2022

A.D.JAGADISH CHANDIRA., J.

ham

Crl.OP.Nos.19488 & 20656 of 2022

06.09.2022