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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P.No.3882 of 2022

Sekar @ Damu

...Petitioner / Accused

**versus**

State:

...Respondent / Complainant

The Inspector of Police  
D 3 Ice House Police Station,  
Chennai.

**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.627 of 2021 on the file of the respondent police.

For Petitioner : Mr.M.Rajavelu

For Respondent : Mrs.G.V.Kasthuri

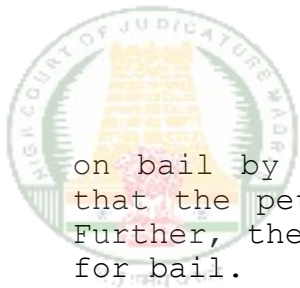
Additional Public Prosecutor

### **ORDER**

The petitioner, who was arrested and remanded to judicial custody on 21.12.2021 for an offence punishable under **Sections 8(c) r/w. 20(b) (ii) (B) of NDPS Act** in Crime No.627 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 the petitioner and two others were found in possession of 6.500kgs of Ganja. 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. He would further submit that the other accused, who are all arrested in this case, are all already enlarged



on bail by the trial Court itself. It is his specific submission that the petitioner is in judicial custody from 21.12.2021 onwards. Further, the petitioner, is a first time offender and hence, he prays for bail.

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4. The learned Additional Public Prosecutor appearing for the respondent police raised objection stating that investigation is pending. However, she admits that the contraband recovered from the petitioner is an intermediate quantity and after recovering the same, the samples taken from the total contraband was forwarded to the Forensic Science Department for chemical examination. Further, she admits that the petitioner, is a first time offender.

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) r/w. 20(b)(ii)(B) of NDPS Act. The other accused are all enlarged on bail. As of now, the investigating officer has examined the witnesses and recorded their statements. It shows that a portion of the investigation has been completed and custodial interrogation may not be necessary in this case. Further, it was reported that the petitioner is not having any bad antecedents.

6. Therefore, taking note of all the above said aspects into consideration and also the fact that the petitioner is a first time offender and he has been in incarceration from 21.12.2021 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 Principal Special Judge, Special Court under E.C and 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 before the respondent police daily at 10.00 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 PRINCIPAL SPECIAL JUDGE  
SPECIAL COURT UNDER E.C. AND NDPS ACT,  
CHENNAI.

2 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,  
D3 ICE HOUSE POLICE STATION,  
CHENNAI.

4 THE SUPERINTENDENT,  
CENTRAL PRISON, PUZHAL, CHENNAI.

+1 CC to M/S M.RAJAVELU Advocate on payment of necessary charges SR.NO.2862

CRL OP.3882/2022

Date :24/02/2022

TA-25/02/2022