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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.4561 of 2022

Mohan Raj

... Petitioner

Vs.

The State Rep by:
The Inspector of Police,
NIB CID Police Station,
Chennai.
(Crime No.28 of 2021)

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail in Crime No.28 of 2021 on the file of the respondent police.

For Petitioner : Mr.V.Vivek

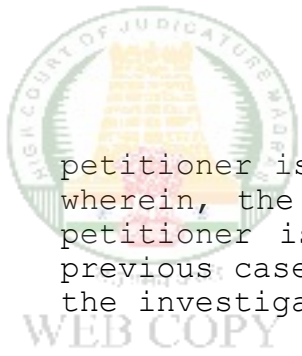
For Respondent : Mr.L.Baskaran
Government Advocate (Crl side)

ORDER

The petitioner/A3, who was arrested and remanded to judicial custody on 22.09.2021 for the offences under Sections 8(c) 20(b) (ii) (C) 25, 29(1) of Narcotic Drugs and Phychotropic Substances Act 1985, in Crime No.28 of 2021, on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 22.09.2021 on a secret information, the respondent police was on watching duty at Madhavaram Bus Terminal. At that time, two cars came that side in suspicious manner and on checking, it was found that Ganja weighing 110 kgs were found in the 3 vehicles and 6 of them who were available in the cars were arrested and the contraband ganja were recovered and two cars involved in this case were seized. Hence, the complaint.

3.The learned counsel for the petitioner submits that the petitioner is no way connected with the alleged offence and he has been falsely implicated in this case. He further submits that the



petitioner is an acting driver on the date of the alleged occurrence, wherein, the contraband was seized by the police and the wife of the petitioner is in the family way. Furthermore, she submits that no previous case is pending against him and he is ready to cooperate with the investigation.

4. The learned Government Advocate (Crl. Side) would raise strong objection stating that totally 60 kgs of ganja seized from 3 cars by the respondent police and investigation was almost completed.

5. As per the FIR, the petitioner is seated in the driver seat on the date of alleged occurrence. He is a call driver by profession. The petitioner was working as a driver in Nellai Nadar School, due to the Covid-19 and he lost his job, due to which, he is working as an acting driver. At that time of alleged occurrence, the respondent police has seized 20 kgs of contraband in Tata Indica Car which was driven by the petitioner and the said contraband is a intermediate quantity and he has no previous case. Hence, the Section 37 of NDPS Act will not apply in this case.

6. Considering the facts and circumstances of the case and also the submissions made by both counsel and also considering the period of incarceration undergone by the petitioner and the investigation was almost completed, this Court is inclined to grant bail to the petitioner with 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 learned XXIII Metropolitan Magistrate, Saidapet, Chennai - 15.

(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 on every Tuesday and Sunday 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.

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-sd/-

09/03/2022

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 THE XXIII METROPOLITAN
MAGISTRATE, SAIDAPET, CHENNAI-15.

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI. [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

4 THE INSPECTOR OF POLICE,
NIB CID POLICE STATION,
CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.V.VIVEK Advocate on payment of necessary charges
SR.NO. 3672

CRL OP.4561/2022

Date :09/03/2022

RW 10/03/2022