



Crl.OP.No.16081 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2022

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.16081 of 2022

P.Rajesh @ Setting Rajesh

...Petitioner

Vs.

State, Rep. by
The Inspector of Police,
H-6, R.K.Nagar Police Station,
Chennai - 600 021.
Crime No.87 of 2021

...Respondent

PRAYER:-Criminal Original Petition is filed under Section 439 of Cr.P.C.

praying to enlarge the petitioner on bail pending trial in C.C.No.204 of 2021 on the file of the Special Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act at Chennai.

For Petitioner : Mr.M.G.Martin Manivannan
for Mr.S.Apunan

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 05.03.2021 for the offence under Sections 8(c) read with 20(b) (ii) (c) 25, 29(1) of NDPS Act 1985, in Crime No.87 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that, there are totally eight accused in this case. It is alleged that the petitioner/A7 along with other accused was in possession of 76 kgs of ganja.

3.The learned counsel appearing for the petitioner submits that the petitioner was arrested and remanded to judicial custody on 05.03.2021. He further submits that, even according to the prosecution, petitioner is a friend of A3 and as instructed by A3, the petitioner was called to collect the ganja from A3 and submits that there is no recovery from the petitioner. He also pointed out from the confession statement of A2, A3 and A4, wherein it is stated that, the petitioner was called by other accused to collect ganja and sell the same to school and college students. He also pointed out the cross examination of PW1, wherein he categorically admitted that the petitioner's name was not mentioned



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and the petitioner was not present in the scene of occurrence. Hence, he prays for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor submitted that all the accused were in possession of 76 kgs of Ganja and it is commercial quantity and further there are two previous cases pending against the petitioner. He further submitted that the petitioner is one of the drug pedler and he used to purchase ganja from other accused persons and sell the same to college and school students and now the trial commence and PW1 already examined. Hence, he vehemently opposed to grant bail to the petitioner.

5. On perusal of the Seizure Mahazar, it is seen that 25kgs of Ganja in a vehicle bearing Reg.No.TN 03 AC 0058 were recovered from A3 and not from the petitioner. That apart, the said vehicle belongs to one Saravanan. Therefore, except the call made by A3, there is no other material to involve the petitioner in this case.

6. Therefore, the petitioner have made out a *prima-facie* case to fulfill the conditions as contemplated under Section 37 of NDPS Act and as such



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considering the facts and circumstances of the case and also considering the period of incarceration undergone by the petitioner i.e., from 05.03.2021, this Court is inclined to grant bail to the petitioner.

7. Accordingly, petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (**Rupees ten thousand only**) with **two blood related sureties**, each for a like sum to the satisfaction of the learned **Special Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act at Madras** 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 petitioner shall report before the respondent police twice daily at 10.30.a.m., and 05.30.p.m., for a period of four weeks and thereafter as and when required for interrogation.

[c] the petitioner shall not abscond either during investigation or trial.



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[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 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.

12.07.2022

Sma

To

1. Special Judge, II Additional Special Court for
Exclusive Trial of Cases under NDPS Act at Madras
- 2.The Inspector of Police,
H-6, R.K.Nagar Police Station,
Chennai - 600 021.
3. The Central Prison,
Puzhal.
- 4.The Public Prosecutor,
High Court of Madras.



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G.K.ILANTHIRAIYAN, J.

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