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CrI.OP.No.19144 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2022

CORAM

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

CrI.OP.No.19144 of 2022

Harish

..Petitioner/A11

Vs.

The State rep by
The Inspector of Police,
B3. Kadambathur Police Station,
Thiruvallur District.

..Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to enlarge the petitioner/accused 11 on bail pending investigation
by the respondent police in Crime No.76/2022.

For Petitioner : Mr.S.Praveenkumar

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

ORDER

The petitioner/A11, who was arrested and remanded to judicial
custody on 12.04.2022 for the offence under Sections 8(c) read with



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20(b)(ii)(B), 22(b), 22(c), 25 and 29(1) NDPS Act in crime No.76 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that, based on the confession statement by the co-accused, the respondent police have found A10, A11 & A12 nearby Thiruvallur railway station. The respondent has seized 2.5 Kgs of Ganja from A10. Hence, the case.

3. Based on the confession statement of A1 to A4, other accused persons were arrested and the contraband was seized. Based on their confession statement, they went to the Thiruvallur Railway station and apprehended other accused persons and seized 2.5 Kgs of Ganja from A10. He was arrested and released on bail by this Court. Therefore, the prosecution failed to prove that all the accused persons were in constructive possession of the contraband. Though the contraband seized from each of the accused, it cannot be a ground to commercial quantity and it is an in-between quantity. That apart, the entire contraband after seized from the accused persons, even till today



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not produced before the concerned Court. Therefore, the twin condition as contemplated under Section 37 of NDPS Act would not comply if the quantity seized is not a commercial quantity for granting bail.

4. Considering the above facts and circumstances of the case and also the period of incarceration by the petitioner from the date of his arrest i.e., 12.04.2022, this Court is inclined to grant bail to the petitioner. Accordingly, the **petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as non refundable deposit to the credit of COVID-19 SALEM DISTRICT; SB.A/c No : 190601000434; IFSC code : ICIC0006119; The Personal Assistant (General) to the Collector, Collectorate, Room No.117, First Floor, Salem-636 001, Ph.No.9445008148**, and on such deposit the 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 **Special Court under NDPS Act, Chennai** and on further conditions that :-



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[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 deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as non refundable deposit to the credit of COVID-19 SALEM DISTRICT; SB.A/c No : 190601000434; IFSC code : ICIC0006119; The Personal Assistant (General) to the Collector, Collectorate, Room No.117, First Floor, Salem-636 001, Ph.No.9445008148 and that the receipt of such payment shall be produced before the concerned Magistrate at the time of executing the bond;

[c] the petitioner shall report before the respondent police twice daily at 10.30 a.m. and 5.30 p.m., until further orders.

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

[e] the petitioner shall not tamper with evidence or witness 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].



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[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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G.K.ILANTHIRAIYAN, J.

mpl

To

- 1.The Special Court under NDPS Act, Chennai.
- 2.The Inspector of Police,
B3. Kadambathur Police Station,
Thiruvallur District.
- 3.Central Prison-Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court of Madras.

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