



Crl.OP.No.21130 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2022

CORAM

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

Crl.OP.No.21130 of 2022

Saravanamurthy

..Petitioner

Vs.

The State by
Inspector of Police,
M-4 Redhills Police Station,
Chennai.
(Crime No.3789 of 2020)

..Respondent

PRAYER:Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.3789 of 2020 and C.C.No.32 of 2021 on file of the respondent Police.

For Petitioner : Mr.J.P.Ravivarman

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 05.09.2020 for the offence punishable under Sections 8(C) r/w 20(b)(ii)(C), 25 and 29(1) of NDPS Act @ Sections 8(C) r/w 20(b)(ii)(C), 25 and 29(1) of NDPS Act and under Section 212 of IPC, in Crime No.3789 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner along with other accused were found in possession of 451 Kgs of Ganja illegally. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he is no way connected with the offence as alleged by the prosecution. He also draws attention of this Court to the confession statements of A1 and A2. Hence, he prays for grant of bail to the petitioner.



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4. The learned Additional Public Prosecutor appearing for the respondent police would submit that there are totally 7 accused in which the petitioner is arrayed as A4. The petitioner along with other accused were found in illegal possession of 451 Kgs of Ganja. Hence, he vehemently opposed to grant bail to the petitioner.

5. It is seen that there are totally 7 accused in which the petitioner is arrayed as A4. According to the case of the prosecution, all the accused persons were in possession of the contraband weighing 451 Kgs of Ganja. Now, the charge sheet has been laid and the same has been taken cognizance in C.C.No.32 of 2021 on the file of the learned Principal Sessions Judge under EC and NDPS Act, Chennai. The learned counsel for the petitioner draws the attention of this Court to the confession statements of A1 and A2. The confession statement of A1 revealed that he along with other accused persons except the petitioner herein used to go to Andhra Pradesh and purchase Ganja to sell the same in Tamil Nadu. All the purchasers as well as the sellers are added as



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accused. The confession statement of A2 revealed that he does not know Telugu language and as such he accompanied the petitioner herein to communicate in Telugu, while purchasing Ganja. Except the said statements, there is absolutely no other materials to connect the petitioner in the alleged occurrence. In fact, the prosecution have examined P.W.1. In the entire perusal of the statement of P.W.1, there is no whisper about the overtact of the petitioner herein.

6. Therefore, the learned counsel appearing for the petitioner before the Trial Court adapted a cross examination of A2 and A3. P.W.1 was cross examined, in which, nothing has been found about the overtact of the petitioner herein. The petitioner neither was in possession nor with other accused persons while purchasing or under possession of the contraband. Therefore, the petitioner has made out a *prima facie* to consider his bail application as contemplated under Section 37 of NDPS Act.

7. Considering the above facts and circumstances of the case,



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and also taking note of the fact that the petitioner is in judicial custody from 05.09.2020, this Court is inclined to grant bail to the petitioner.

8. Accordingly, 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 learned Judicial Magistrate-II, Ponneri 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 learned Principal Sessions Judge under EC and NDPS Act, Chennai daily at 10.30 a.m., and 05.30 p.m, until further orders.

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

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.



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[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.

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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Judicial Magistrate-II, Ponneri.
- 2.The Inspector of Police,
M-4 Redhills Police Station,
Chennai.
3. The Puzal-Jail.
- 4.The Public Prosecutor,
High Court of Madras

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