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Crl.O.P.No.21907 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2022

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.21907 of 2022

Sankar

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
J-6, Thiruvanmiyur Police Station,
Chennai.
Crime No.286 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail concerned in Crime No.286 of 2022
pending on the file of the respondent police.

For Petitioner : Mr.R.Parthiban

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 13.08.2022 for the offences punishable under Sections 8(c), 20(b)(ii)(B), 25, 29(1) of NDPS Act, 1985, in Crime No.286 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 13.08.2022 at about 15.00 hours, on receipt of a secret information, when the respondent police conducted a search at Ambedkar Street, Periyar Nagar, Thiruvannamiyur, one Venkatesan(A1) was found in possession of 5 pockets, each 10 grams of Ganja without any valid licence and the respondent police seized the contraband. Based on the confession statement given by him, the respondent police arrested the petitioner, who is A2 in this case and also seized 1.2 Kgms of Ganja from him. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and a false complaint has been foisted as against the petitioner. Therefore, he prays for grant of bail to the petitioner.



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4. The respondent has filed a detailed counter. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner is a habitual offender and he has got 15 previous cases and that on the date of occurrence, the petitioner was found in possession of 1.2 Kgms of Ganja. Therefore, he vehemently opposed to grant bail to the petitioner.

5. At this juncture, in reply, learned counsel appearing for the petitioner would submit that it is true that the petitioner has got 15 previous cases and the respondent has served summons for appearance for the proceedings under Section 110 of Cr.P.C., since the petitioner did not appear for the enquiry, the respondent has foisted a case against the petitioner. He would also submit that the petitioner has never been caught in for having involved in a drug case. He would also reiterate that as far as the present case is concerned, it is only a put up case. Therefore, he prays for grant of bail to the petitioner.

6. Heard both the learned counsel and perused the materials



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available on record.

7. Admittedly, though the petitioner has got 15 previous cases, he has no previous case in respect of NDPS Act. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel and also the period of incarceration suffered by the petitioner and that there is no previous case as against the petitioner in respect of NDPS Act, 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.25,000/- (Rupees Twenty Five Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the **learned Special Court for NDPS Act, Chennai**, 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



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respondent police daily at 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;

[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 abscond, a fresh FIR can be registered under Section 229A IPC.

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1. The Special Judge,
Special Court for NDPS Act, Chennai
2. The Inspector of Police,
J-6, Thiruvanmiyur Police Station,
Chennai.
3. The Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court of Madras.

A.D.JAGADISH CHANDIRA., J.



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