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CrI.O.P.No.24096 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2022

CORAM

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

CrI.O.P.No.24096 of 2022

Dhivakar

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
G-7 Chetpet Police Station,
Chennai.

(Crime No.133 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in connection with the Crime No.133
of 2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.R.Sasikumar

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 12.09.2022 for the alleged offences punishable under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act in Crime No.133 of 2022 on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that on 25.08.2022 at about 14.00hours, on receipt of a secret information about illegal transport of ganja, the Sub-Inspector of Police along with the Police team went near the Railway Track, Brindavanam Street, Chetpet, where they found that the the petitioner along with the other accused were illegally transported 1.200 kilograms of Ganja for sale. The respondent have seized the contraband under the cover of seizure mahazar and registered a case in Crime No.133 of 2022 under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act. Hence the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner has been implicated in this case only based on the confession statement given by the first accused.



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He would also submit that there is no recovery from the petitioner and there is no previous case against him. He would further submit that the petitioner is in custody from 12.09.2022 and he is ready to abide by any stringent conditions that may be imposed by this Court. Hence, he prays for grant of bail to the petitioner.

4. The respondent has filed a detailed counter in this case.

5. The Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioner is arrayed as A3 in this case. He would further submit that the petitioner along with the other accused illegally transported 1.200 kilograms of Ganja for sale. He would also submit that the petitioner was arrested based on the confession statement given by the first accused and there is no recovery from this petitioner. However, he vehemently opposed to grant bail to the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the materials available on record.



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7. Taking into consideration the facts and circumstances of the case and taking note of the fact that the contraband has not been recovered from the petitioner and the co-accused has been granted with bail, 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 II Metropolitan Magistrate, Egmore, 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 respondent Police everyday at 10.30 a.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 abscond, a fresh FIR can be registered under Section 229A IPC.

10.10.2022

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To

- 1.The II Metropolitan Magistrate, Egmore, Chennai.
- 2.The Inspector of Police,
G-7 Chetpet Police Station,
Chennai.
3. The Central Prison, Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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