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Crl.OP.No.25846 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2022

CORAM

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

Crl.OP.No.25846 of 2022

Suryapraskash

..Petitioner

Vs.

The State Represented by,
The Inspector of Police,
M-4, Redhills Police Station,
Chennai.

...Respondent.

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioners on bail pending trial of the case in C.C.No.41 of 2022 pending on the file of the learned II Additional Special Court for NDPS Cases, Chennai.

For Petitioner : Mr.V.K.Sathiamurthy

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 23.07.2021 for the offences punishable under Sections 8(c) read with Section 20(b)(ii)(C), 25 and 29(1) of the NDPS Act in C.C.No.41 of 2022 on the file of the learned II Additional Court NDPS Case, Chennai, seeks bail.

2. The case of the prosecution is that on 23.07.2021, at about 09.30.hrs., the defacto complainant namely Sukumari, Sub Inspector of Police, attached to M4 Redhills Police Station, Chennai received secret information and entered the same in the General Diary and then got permission from the Inspector of Police and later along with the police party went to M.A.Nagar Check Post, Redhills and intercepted a vehicle driven by one Sathish Kumar/A6 and during enquiry, it was found that the accused had illegally transported 120 kgs of dry ganja, which is a commercial quantity. Thereafter, samples were taken and sent for chemical analysis and during enquiry, accused persons confessed that the other accused colluded with each other and brought the bulk quantity of dry ganja from Andhra Pradesh for illegal sale in Tamil Nadu and also



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further confessed that the petitioner along with two other accused piloted the vehicle which was containing the contraband in another vehicle. Based on the confession, the petitioner and other accused were arrested on 23.09.2021. Thereafter, after investigation, the respondents have filed final report and the case has been taken on file in C.C.No.41 of 2022 on the file of the learned II Additional Sessions Judge for NDPS Cases, Chennai.

3. The learned counsel appearing for the petitioner would submit that the petitioner is arrayed as A1 in the final report. The allegation as against the petitioner is that, he along with two other accused namely, A4 and A5 piloted the vehicle, which was containing the contraband. He would further submit that, only from the arrested persons, 120 kgs of dry ganja was recovered. Based on their confession statements, petitioner has been implicated and he was arrested on 23.09.2021 after a period of two months. Subsequently, after the arrest of the petitioner, the respondent has also recorded confession statement from him, wherein the petitioner is alleged to have stated that, he along with two other accused, colluded with other accused and also piloted the



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vehicle in which the contraband was transported. He would further submit that, other than the alleged confession there is absolutely no material to suggest that the petitioner had piloted the vehicle containing the contraband. During the course of the investigation, no material has been brought in by the respondent to connect the petitioner with other accused, other than the alleged confession statement. He would further submit that though, the respondent claims that the petitioner had piloted the vehicle of the other accused, no offending vehicle has been seized and no investigation has been done with regard to any other car stated to have been the pilot vehicle to the vehicle, from which, the contraband was seized. He would further submit that, in this case, though, the respondent alleges that A5 and A6 were arrested on the spot with the contraband, the contraband has been produced before the Court on 18.08.2021 with a delay of 26 days, thereby creating a doubt with the entire prosecution case. He would further submit that no other case has been registered as against the petitioner under NDPS Act. He would further submit that the petitioner has satisfied the conditions as required under Section 37 of NDPS Act and there are reasonable grounds for



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believing that the petitioner was not guilty of such offence. He would further submit that the petitioner has been suffering incarceration for more than a year. He would further submits that the petitioner is ready to deposit the original title deeds of the immovable property worth about Rs.10 lakhs either belonging to himself or family members or friends, at the time of executing the sureties and ready to abide by any stringent conditions and thereby prays for grant of bail to the petitioner. Hence, he seeks for grant of bail to the petitioner.

4. The respondent has filed a detailed counter. The relevant overt act of the accused persons are mentioned in para(4) which is reads as follows:

<i>S.No.</i>	<i>Accused</i>	<i>Contraband Seized</i>	<i>Commercial/ Non- Commercial</i>	<i>NDPS Schedule No.</i>	<i>Chemical Report</i>
1.	A1	No recovery	--	--	--
2.	A2	No recovery	--	--	--
3.	A3	No recovery	--	--	--
4.	A4	No recovery	--	--	--
5.	A5	No recovery	--	--	--
6.	A6 & A7	120 kgs dry ganja	Commercial	55	Obtained



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<i>S.No.</i>	<i>Accused</i>	<i>Contraband Seized</i>	<i>Commercial/ Non- Commercial</i>	<i>NDPS Schedule No.</i>	<i>Chemical Report</i>
					Report

5. The learned Government Advocate (CrI.Side) appearing for the respondent would submit that, the petitioner colluded with other accused and had purchased dry ganja from Andhra Pradesh and have transported the same in a car. He would further submit that the petitioner along with other accused namely A4 and A5 have piloted the vehicle, which was containing the contraband in another vehicle. The accused A6 & A7 were arrested at the spot with the contraband and they have confessed their role as well as the petitioner's role. Based on which, the petitioner was arrested on 23.09.2021. He would further that submit that the vehicle which is stated to have piloted the vehicle containing the contraband has not been fixed and seized and no call records has been collected so far. He would further submit that final report has been filed and the case has been taken up for trial in C.C.No.41 of 2022. He would further submit that there is no previous case pending against the petitioner. However, he opposed for grant of bail to the petitioner.



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6. Heard the learned counsels and also perused the materials available on record.

7. This Court on perusal of the records is of the opinion that the petitioner has satisfied the requirements under Section 37 of the NDPS Act for grant of bail.

8. Taking into consideration the facts and submissions and the period of incarceration of the petitioner from the date of his arrest and also considering that the the petitioner has satisfied with the conditions required under 37 of NDPS Act and also considering the undertaking given by the petitioner that he is ready to deposit the original title deeds of the immovable property worth about Rs.10 lakhs either belonging to himself or family members or friends, at the time of executing the sureties, this Court is inclined to grant bail to the petitioner.

9. Accordingly, the petitioner is ordered to be released on bail



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on his executing a bond for a sum of **Rs.50,000/-** (Rupees Fifty thousand only) with **two sureties**, each for a like sum to the satisfaction of the learned **IInd Additional Special Court for NDPS Cases, Chennai** and on further conditions that :-

[a] the petitioner shall deposit the original title deeds of the immovable property worth about Rs.10 lakhs either belonging to himself or family members or friends to the credit of crime number at the time of executing the sureties;

[b] 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;

[c] the petitioner shall report before the trial Court on all working days at 10.30.a.m.,until further orders.

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

[e] the petitioner shall not tamper with



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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]**;

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

15.11.2022

Sma

To

1. The II Additional Special Court for NDPS Cases,
Chennai.
2. The Inspector of Police,
M-4, Redhills Police Station,
Chennai.
3. Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court of Madras



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A.D.JAGADISH CHANDIRA, J.

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