



Crl.OP.No.28562 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

CORAM

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

Crl.OP.No.28562 of 2022

Vengadachalam

... Petitioner

Vs.

State Rep by
The Inspector of Police,
Avinashi Police Station,
Coimbatore District.
(Crime No.221 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in Crime No.221 of 2022 on the file
of the respondent.

For Petitioner : Mr.W.Camyles Gandhi

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 24.04.2022 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C) of Narcotic Drugs and Psychotropic Substances Act in Crime No.221 of 2022 on the file of respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant Amal Arockiadass who is the Sub Inspector of Police, Avinashi Police Station is that on receipt of a secret information, he along with his team went to the place of occurrence, wherein, there persons were standing near a pulsar bike with one travel bag. On seeing the Police officials, they have attempted to escape from the place of occurrence and three persons namely Murugesan, Saran and Achu @ Suresh were arrested and on search, 6 kgs of dry Ganja was recovered from them and on their confession, they had purchased the same from A1/Shanthi, who had brought that from Andhra Pradesh. Later, A1 was arrested with 15 kgs of Ganja and the petitioner/A3 has accompanied with A1. Hence the complaint.



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3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has nothing to do with the alleged offence. He would submit that even as per the prosecution, one Shanthi, who has been arrayed as A1, was stated to have found to be in possession of 15 kgs of Ganja and the petitioner is stated to have accompanied her. He would submit that a case has been foisted for the purpose of detaining the other accused viz., Saran/A4, Shanthi/A1 and the petitioner. Pursuant to which, the petitioner was detained under Act 14. Later, the detention order was revoked by the Advisory Board. He would further submit that absolutely, no recovery has been made from the petitioner. Taking into consideration the recovery it is only from A1/Shanthi, from whom 15 kgs of Ganja was recovered, which is an intermediate quantity. He would submit that similarly placed co-accused has been granted bail by this Court in Crl.O.P.No.27118 of 2022 dated 14.11.2022. Therefore, he prays for grant of bail to the petitioner.

4. The respondent has filed a detailed counter.



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5. The learned Government Advocate (Crl.Side) appearing for the respondent has filed a counter and submitted that on receipt of a secret information, a search was conducted and from the petitioner and two others, 6 kgs of Ganja was recovered. As per the statement recorded from them, they have purchased it from the main accused /Shanthi, who have bought the Ganja from Andhra Pradesh for retail selling in Tiruppur. Based on the investigation, Shanthi/A1 was arrested with 15 Kgs of Ganja and the petitioner was found to be accompanied with A1 and standing along with A1 at the scene of occurrence. He would submit that the petitioner was earlier detained under Act 14 and the detention order was revoked by the Advisory Board. He would submit that there is no recovery from the petitioner. However, he opposed to grant bail to the petitioner.

6.Heard the learned counsel and perused the materials available on record.

7.Taking into consideration the facts and submissions of the learned counsel and the quantity recovered from the co-accused A1 is only



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15 kg, which is an intermediate quantity and that no recovery has been made from the petitioner and that a similarly placed co-accused has been released on bail and also considering the period of incarceration undergone by the petitioner and taking note of the Section 37 of NDPS Act, this Court is inclined to grant bail to the petitioner with certain conditions.

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 Judge, Special Court under EC & NDPS Act Cases, Coimbatore** 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;



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[b] the petitioner shall respondent Police daily at 10.30 a.m., and 5.30 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];



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

01.12.2022

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To

1. The learned Special Court under EC & NDPS Act cases,
Coimbatore
2. The Inspector of Police,
Avinashi Police Station,
Coimbatore District.
3. The Central Prison,
Coimbatore
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.

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