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Crl.OP.No.29441 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

CORAM

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

Crl.OP.No.29441 of 2022

Kamesh @ Kameshwaran

... Petitioner

Vs.

State rep by:

The Inspector of Police,
PEW-Chengalpet Police Station,
Chengalpet.
(Crime No.434 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.434 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 15.10.2022 for the offences punishable under Sections 8(c), 20(b)(ii)(B) of NDPS Act, in Crime No.434 of 2022 on the file of respondent police, seeks bail.

2. The case of the prosecution is that the petitioner along with the other accused was found to be in illegal possession of 2.500 kgs of Ganja. Hence, the case.

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 the petitioner has been falsely roped in this case and even as per the prosecution, absolutely there is no recovery from the petitioner and thereby, the rigours of Section 37 of NDPS Act will not be applicable to him. He would submit that the petitioner is ready to abide by any stringent conditions imposed by this Court. Therefore, he prays for grant of bail to the petitioner.



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4. The respondent has filed a detailed counter.

5. The learned Government Advocate (crl.side) appearing for the respondent would submit that the petitioner along with the other accused was found to be in illegal possession of 2.500 kgs of Ganja, which is a non commercial quantity. He would further submit that the petitioner has one previous case of similar nature pending against him. He would further submit that A1 in this case has been arrested and released on bail. Hence, he vehemently opposed to grant bail to the petitioner.

6. In reply, learned counsel for the petitioner would submit that the petitioner is only aged about 24 years and that the main accused in this case has been granted bail by the learned Principal Special Judge (FAC), EC & NDPS Court, Chennai in Crl.M.P.No.5814 of 2022 dated 22.11.2022. He would further submit that the blood relatives of the petitioner will stand as a surety.



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7. Heard both the learned counsel and perused the materials available on record including the First Information Report.

8. Taking into consideration of the facts and circumstances of the case and also considering the fact that there is no recovery from the petitioner and the rigors of Section 37 of NDPS Act will not be applicable to him, this Court is inclined to grant bail to the petitioner.

9. 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, out of which, one surety should be either father or mother of the petitioner**, each for a like sum to the satisfaction of the **Judicial Magistrate Court-II, Chengalpet** 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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[c] the petitioner shall report before the respondent Police daily 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 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.

30.11.2022

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A.D.JAGADISH CHANDIRA,J.
shk

To

1. The Judicial Magistrate Court-II, Chengalpet
- 2.The Inspector of Police,
PEW-Chengalpet Police Station,
Chengalpet.
3. The Central Prison,
Puzhal
4. The Public Prosecutor,
High Court of Madras.

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