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Crl.O.P.No.3945 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2023

CORAM

THE HON'BLE MRS.JUSTICE T.V.TAMILSELVI

Crl.O.P.No.3945 of 2023

Ganesh

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
D-1, Tiruttani Police Station,
Tiruvallur.

(Crime No.373 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail pending in Crime No.373 of 2022
pending on the file of the respondent.

For Petitioner : Mr.S.Apunu

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)

ORDER

The petitioner, who was arrested and remanded to judicial
custody on 19.08.2022 for the alleged offences punishable under Sections
8(c) r/w 20(b)(ii)(C), 29(1) of Narcotic Drugs and Psychotropic Act, 1985
and 328 of IPC, in Crime No.373 of 2022 on the file of the respondent



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Police, seeks bail.

2. The case of the prosecution is that on 19.08.2022, on receiving a secret information, the respondent police went to the scene of occurrence, wherein they found that the accused were in illegal possession of 26 kg of Ganja, which is a commercial quantity and they purchased the same from Andhra to sell in Tiruttani. The respondent Police seized the contraband and arrested the accused and registered the case in Crime No. 373 of 2022 for the offence under 8(c), 20(b)(ii)(C), 29(1) of Narcotic Drugs and Psychotropic Act, 1985 and 328 of IPC. Hence the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person aged about 21 years. He further submitted that as per the prosecution, the respondent seized the contraband for about 26 kilograms from the bags possessed by all the three accused and the contraband were calculated totally. He further submitted that even as per the prosecution, there is no specific allegation against this petitioner, as if, he was in possession of 26 kilograms of Ganja. He also submitted that the petitioner is in custody from 19.08.2022 and he is ready to abide by any



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stringent conditions that may be imposed by this Court. Hence, he prayed to grant bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner (A2) along with the other accused were found to be in illegal possession of 26 kilograms of Ganja in their bags. He also stated that the contraband were bought from Andhra to Tiruttani for selling and the alleged contraband is a commercial quantity. He further stated that the investigation is pending and no previous case is pending as against the petitioner, however, he vehemently opposed to grant bail to the petitioner.

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

6. Considering the facts and circumstances of the case and the submissions made by the learned counsel for the petitioner, it reveals that the contraband recovered by the respondent Police is collected from the bags possessed by all the three accused, thereby, it comes under commercial



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quantity. Therefore, in view of the above facts and also considering the period of incarceration undergone by this petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** with **two sureties** (out of which, one should be the blood surety, who should produce document to show his/her means), each for a like sum to the satisfaction of the **learned Special Judge, II Additional Special Court for exclusive trial of cases under NDPS Act, Madras**, 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., for a period of two months and thereafter, as and when required for interrogation;

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



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[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.

01.03.2023

gbi

To

1. The Special Judge, II Additional Special Court for exclusive trial of cases under NDPS Act, Madras
2. The Inspector of Police,
D-1, Tiruttani Police Station,
Tiruvallur.
3. The Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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T.V.TAMILSELVI,J.

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