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CrI.O.P.No.4489 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2023

CORAM

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

CrI.O.P.No.4489 of 2023

Velmurugan

...Petitioner/Accused No.3

Versus

State rep by the
Union of India through
Intelligence Officer,
Narcotics Control Bureau, Chennai
(Madurai Sub-Zone under Chennai Unit)
NCB F.No.48/1/02/2022/NCB/MDU

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail pending investigation in NCB F.No.48/1/02/2022/NCB/MDU on the file of the respondent.

For Petitioner : Mr.R.C.Paul Kanagaraj

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor



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ORDER

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The petitioner, who was arrested and remanded to judicial custody on 02.05.2022 for the offences punishable under Sections 8(c) r/w 21(c), 27(A), 28 and 29 of the NDPS Act 1985, in NCB F.No.48/1/02/2022/NCB/MDU on the file of the respondent police seeks bail.

2. The case of the prosecution is that on 30.04.2022, at about 15.30 hrs, on a secret information about the transportation of heroin in a Maruti Swift car and while it was crossing Thoppur toll gate by around 12.00 a.m. on 01.05.2022, the respondent and others mounted a surveillance and intercepted the vehicle and conducted a search. On search, the petitioner along with other accused were to have transported 3 kgs. of heroin concealed in the rear door of the car. Hence, the complaint.

3. The learned counsel appearing for the petitioner submitted that he is an innocent person and he has not at all committed any offence as alleged by the respondent police and he is no way connected with the



occurrence. He would submit that he was not in possession of any contraband and based on the confession statement given by the co-accused, the petitioner/A3 has been implicated in this case. Furthermore, he is a Government servant and working as Assistant in District Teacher Education and Training Centre at Ramanathapuram and hence, there was no necessity for him to indulge in this nefarious trade. He would submit that while arresting him, the respondent had also taken a sum of Rs.3,00,000/- from his house and the money was raised out only by pledging of jewels of his wife. He would further submit that the petitioner has been suffering incarceration from 02.05.2022. Hence, he prays for grant of bail to the petitioner.

4.The learned Special Public Prosecutor (NCB Cases) appearing for the respondent submitted that totally, there are 4 accused involved in this case and the petitioner is arrayed as A3. He would submit that he has only arranged money for purchase of contraband through hawala transactions and he has taken a loan by mortgaging jewels for a sum of Rs.80,000/- on 25.02.2022 which is 65 days prior to the date of seizure.



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Hence, the money of Rs.3 lakhs seized from him at the time of seizure is earned as commission for his illegal drug trafficking. He would submit that the petitioner has regular communication with A1 through phone and he transported the contraband knowingly well, he accompanied with A1. He would submit that during the investigation, it is found that the petitioner regularly arranges boat through Manikandan/A4 to deliver the seized contraband to Srilanka in the high seas. It also reveals that the petitioner was waiting at Mandabam Bus Stand along with A4 to receive the seized drug. But before receiving the said drug, A1 and A2 was arrested by the investigating officer. Based on the confession statement given by them, the petitioner has been implicated in this case. He submitted that there is no contraband received from this petitioner and also there is no previous case against him. He would submit that the investigation is completed and also charge sheet has been filed. Hence, he vehemently prayed for grant of bail to the petitioner.

5.This Court has taken into consideration that no previous case is registered against the petitioner and though the petitioner about to receive



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the contraband the same was not recovered by him. That apart, the petitioner is a Government servant and there is no possibility of abscondance, the investigation is completed and the charge sheet has also been filed, and also considering the period of incarceration suffered by the petitioner from 02.05.2022, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakhs Only), with two sureties (out of which, one surety must be a blood related surety) each for a like sum to the satisfaction of the **learned Additional District Judge and Presiding Officer of Special Courts under EC and NDPS Act Cases at Salem**, and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) **the petitioner shall appear before the respondent police on every Tuesday and Saturday at 10.30 a.m., for a period of 4 months and thereafter the petitioner shall appear before the Ramanathapuram**



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Town Police Station on every Sunday at 10.30 a.m., for a period of 6 months.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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];

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

7. With the above directions, this Criminal Original Petition is ordered.

03.03.2023

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To

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1. The Additional District Judge and Presiding Officer of Special Courts under EC and NDPS Act Cases at Salem
2. Union of India through
Intelligence Officer,
Narcotics Control Bureau, Chennai
(Madurai Sub-Zone under Chennai Unit)
3. The Superintendent,
Central Prison, Salem.
4. The Public Prosecutor,
High Court, Madras.
5. The Inspector of Police,
Ramanathapuram Town Police Station,
Ramanathapuram.



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