



CrI.O.P.No.4756 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on 19.07.2023	Orders pronounced on 26.07.2023
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CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.4756 of 2023

P.Jayam

... Petitioner

Vs.

Union of India represented by
Intelligence Officer
Narcotics Control Bureau
Chennai Zonal Unit
Chennai – 600 077.

... Respondent

This Criminal Original Petition is filed under Section 439 Cr.P.C.
praying to enlarge the petitioner on bail in R.R.No.37 of 2021 pending on
the file of Principal Special Court under EC & NDPS Act, Chennai.

For Petitioner	: Mr.V.Ramamurthy
For Respondent	: Mr.S.Rajendra Kumar Special Public Prosecutor



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ORDER

This Criminal Original Petition is filed praying to enlarge the petitioner on bail in R.R.No.37 of 2021 pending on the file of Principal Special Court under EC & NDPS Act, Chennai.

2. Learned counsel for the petitioner submitted that petitioner is shown as A4 in R.R.No.37 of 2021 (in NCB F.No.48/1/14/2021-NCB/MDS) on the file of respondent. Petitioner is an innocent and he is falsely implicated in this case on the basis of the confessional statement of co-accused. He has no roll in connection with the procurement and transportation of ganja. The allegation that he financed for the procurement of ganja is totally false. He is in judicial custody from 17.12.2021 for no reasons. Therefore, this petition is filed seeking bail.

3. In response, learned Government Advocate (criminal side) submitted that respondent seized 642.100 kg of ganja kept in an Eicher truck bearing registration number TN-57-W-0591 on 04/05.12.2021 at



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Karanodai toll plaza. Accused Kubendran, Balakrishnan and Ramu were arrested in connection with the seizure of ganja. During the course of investigation, it came to light that petitioner and Chelladurai @ Periyakaruppan had jointly financed a sum of Rs.3,60,000/- for procurement of seized ganja. For every investment of Rs.1,00,000/- paid to Chelladurai, he would return Rs.1,50,000/- after successful delivery of ganja to Chelladurai. In support of the role of petitioner, details of cell phone conversations of the petitioner with Chelladurai @ Periyakaruppan and with Kubendran and calls made from Chelladurai @ Periyakaruppan to the petitioner, Kubendran and Balakrishnan are given. In the counter filed by respondent, it is also stated that petitioner used cell phone number 63848 59696, which was subscribed in the name of Rahulpandi Ugrapandi. Thus, he submitted that there are materials available to conclude that petitioner had financed and actively involved in the procurement and transportation of ganja.

4. In reply to this submission, learned counsel for petitioner submitted that most of the alleged cell pone conversations had not happened



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on 04/05.12.2021, except some cell phone conversations with Chelladurai @ Periyakaruppan. Even assuing that petitioner had cell phone conversations with Chelladurai @ Periyakaruppan, no legal presumption can be drawn that the petitioner had financed for the procurement of ganja. This Court had already granted bail to A1-Kubendran and A5-Chelladurai @ Periyakaruppan in Crl.O.P.Nos.7827 and 8876 of 2023. Petitioner is similarly placed like A5-Chelladurai @ Periyakaruppan, and thus, he seeks bail.

5. Considered the rival submissions and perused the records.

6. As per the facts narrated above and the complaint allegations, it is evident that on 04.12.2021 at about 19.20 hours, respondent officers intercepted Eicher truck bearing registration number TN-57-W-0591 at Karanodai toll plaza and seized 642.100Kg of ganja. Admittedly, petitioner is implicated as an accused on the basis of confessional statement of co-accused and certain cell phone conversations among the accused. It is settled proposition of law that the statement recorded under Section 67 of



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NDPS Act is not admissible in evidence. Therefore, respondent cannot implicate the petitioner as accused on the basis of confessional statement of him and co-accused alone. There must be other incriminating materials available to implicate the petitioner as accused in this case. The cell phone conversations relied in this case, except some conversations with Chelladurai, other conversations do not relate to the date of procurement/transportation of ganja. From the cell phone conversations, we cannot come to a conclusion that petitioner had financed for procurement of ganja. Without going deeply into the merits of the case, in the light of the materials available in this case, as of now, this Court finds that there is no legal and reliable material available to conclude that the petitioner had financed the procurement of ganja. A1 and A5, who are similarly placed like the petitioner, were already released on bail. Complaint is filed and taken on file in C.C.No.128 of 2022.

7. In the said circumstances, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail on executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five thousand only)** with



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two sureties each for a like sum to the satisfaction of the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai, and on further conditions that :-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the concerned trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] petitioner must appear before the trial Court in all working days and on all the date of hearing without fail until further orders .

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

[d] petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the



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conditions have been imposed and the petitioner released on bail by the learned Judge/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 absconds, a fresh FIR can be registered under Section 229A IPC.

26.07.2023

mra

Index :Yes/No

Internet:Yes

Speaking Order/Non-speaking Order

To

1. The Principal Special Judge
Principal Special Court under EC & NDPS Act
Chennai
2. The Intelligence Officer
Narcotics Control Bureau
Chennai Zonal Unit
Chennai – 600 077.
3. The Public Prosecutor,
Madras High Court,
Chennai.

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G.CHANDRASEKHARAN,J.

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order in
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