



Crl.O.P.No.5219 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

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

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T.P.Ganesan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
P5-MKB Nagar Police Station,
Pulianthope,
Chennai.

(Crime No.83 of 2021).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner/accused on bail, in connection with
C.C.No.200 of 2021, pending on the file of the learned 2nd Additional Special
Court for Essential Commodity Act & NDPS Act Cases, Chennai.

For Petitioner : Mr.K.R.Padhmanabharaja

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)



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ORDER

The petitioner, who was remanded to judicial custody through PT warrant on 06.02.2023, for the offences punishable under Sections 8(c), 20(b)(ii)(C), 25 and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.83 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 11.02.2021 at about 14.30 hours, the Sub-Inspector of Police, on receipt of a secret information about the illegal possession of narcotic substances, had entered the same in the General Diary and went to the scene of occurrence, i.e., No.65, A Block, Puthu Nagar, Vysasarpadi, Chennai, along with his police team. Wherein, they found that the accused persons were in illegal possession of 30 kilograms of ganja, which is a commercial quantity and the same was seized under the cover of seizure mahazar in the presence of witnesses along with TVS Jupiter bearing registration No.TN 18 BC 0466, an auto bearing registration No.TN 05 BW 0402 and two knives and arrested the accused 1, 3 & 4 and also recorded confession statement from them, in which, A1 has revealed that A2 has supplied the contraband to him. Based on which, the



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case in Crime No.83 of 2021 was registered against the accused for the offences punishable under Sections 8(c), 20(b)(ii)(C), 25 and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985. Hence the case.

3. Learned counsel for the petitioner submitted that the petitioner, who is arrayed as A2 in this case, is an innocent person and he has been falsely implicated in this case. He further submitted the petitioner has been arrested only based on the confession statement recorded from A1. He also submitted that the alleged contraband is stated to have recovered from the house of A1 and absolutely, there is no recovery from the petitioner and other than the confession statement recorded from A1, no other materials are available to connect the petitioner to the crime. He also submitted that the petitioner and A1 are running Sai baba temple in Salem and Chennai respectively and they are known to each other. He further submitted that one Priya/wife of A1 had borrowed a sum of Rs.5lakhs from the wife of the petitioner and she had been sending the interest and principal to the bank account of the petitioner's wife and other than that there is no transaction between the petitioner and A1 whatsoever, whereas the petitioner has been implicated in this case and remanded to judicial custody through PT warrant



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on 06.02.2023. He also submitted that the investigation has been completed and the case has also been taken on the file of the II Additional Special Court for EC & NDPS Act Cases, Chennai, in C.C.No.200 of 2021. He further reiterated that there is absolutely no recovery from the petitioner. He further submitted that the petitioner is having a permanent residence and he is ready to abide by any stringent conditions that may be imposed by this Court, hence, he prayed for grant of bail to the petitioner.

4. The respondent has filed a detailed counter.

5. Learned Government Advocate (Crl.Side) submitted that the petitioner (A2) is the person who had supplied the alleged contraband, which is a commercial quantity to A1 and other accused. He further submitted that the petitioner had sent the contraband through the travel agency MSS Transport on 26.01.2021 and the same was received by A1 on 01.02.2021 and there was a money transaction between the wife of the petitioner and the wife of A1. He also submitted the one previous case of similar nature is pending as against the petitioner. He also submitted that the investigation has been completed and the case has also been taken on the file of the learned II



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Additional Special Court for EC & NDPS Act Cases, Chennai, in C.C.No.200 of 2021 and the case now stands posted on 08.05.2023. Hence, he object for grant of bail to the petitioner.

6. In reply, the learned counsel for the petitioner submitted that earlier, the petitioner was granted anticipatory bail in the present case by this Court in Crl.O.P.No.3815 of 2021 dated 15.04.2021 and further, the condition was modified by an order dated 02.06.2021 in Crl.M.P.No.5540 of 2021 and later by an order dated 10.08.2021 in Crl.M.P.No.7578 of 2021, extension of time to surrender and furnish surety was granted to the petitioner, whereas, before executing the sureties, the petitioner was arrested on 11.08.2021 in another false case and thereafter, remanded on 12.08.2021. He further submitted that even in the other case registered against the petitioner in Crime No.01 of 2022, there is no recovery from the petitioner and the petitioner has been granted bail by the learned Additional District Judge/Presiding Officer, Special Court under EC Act, Thanjavur in Crl.,M.P.No.1070 of 2022 dated 07.03.2022. He also submitted that the petitioner is in custody for more than one and half years. Hence, he prayed for grant of bail to the petitioner.



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7. Heard the learned Counsel for the petitioner and the learned Government Advocate(Crl.Side) and perused the materials available on record including the documents filed by the petitioner in the typed set of papers.

8. Taking into consideration the above facts and circumstances of the case and the submissions made by the learned counsel on both sides, it is seen that the petitioner has been granted anticipatory bail in this case by this Court in Crl.O.P.No.3815 of 2021 dated 15.04.2021. However, before the petitioner could surrender, execute bond and furnish sureties, he was arrested in another case and he has been granted bail in that case. Further, taking note of the fact that in both cases there is no recovery from the petitioner, this Court is of the opinion that the petitioner has satisfied the conditions contemplated under Section 37 of NDPS Act and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

9. Accordingly, the petitioner is ordered to be released on bail on this executing a bond for a sum of **Rs.10,000/- (Rupees Ten thousand only)**



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with **two sureties**, each for a like sum to the satisfaction of the learned **Principal District Judge, Special Court for Essential Commodity Act & NDPS Act Cases, Chennai**, 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 appear before the learned 2nd Additional Special Court for Essential Commodity Act & NDPS Act, Chennai, on all working days at 10.30 a.m., for a period of four weeks and thereafter, on the dates fixed by the learned trial Judge;

[c] the petitioner shall not abscond during trial;

[d] the petitioner shall not tamper with evidence or witness during 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.

25.04.2023

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To

1. The Principal District Judge,
Special Court for Essential Commodity Act
& NDPS Act Cases,
Chennai.
2. The 2nd Additional Special Court
for Essential Commodity Act & NDPS Act,
Chennai.
3. The Inspector of Police,
P5-MKB, Nagar Police Station,
Pulianthope,
Chennai.
4. The Prison Borstal School and District Jail,
Pudukottai.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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