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Crl.O.P.No.5809 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2023

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

Crl.O.P.No.5809 of 2023

Ganesh

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
PEW, Ambattur Police Station.

(Crime No.1163 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in Crl.M.P.No.1136 of 2023 in
Crime No.1163 of 2022 on the file of the learned Principal Sessions Judge,
Special Court for Exclusive Trial of cases under NDPS Act, Chennai.

For Petitioner : Mr.S.Apunu

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 09.02.2023, in connection with Crime No.1163 of 2022, for the alleged offence under Sections 8(c) r/w 20(b)(ii)(C) of Narcotic Drugs and Psychotropic Substances Act, 1985, pending on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de-facto complainant/Dilli Babu, Inspector of Police, is that on receiving the specific information, he intercepted two persons named Silambarasan and Gokul and from their custody, he has recovered 21 Kilograms of Ganja. The respondent has arrested the accused and registered a case in Crime No.1163 of 2022 for the alleged offence under Sections 8(c) r/w 20(b)(ii)(C) of Narcotic Drugs and Psychotropic Substances Act, 1985. During the course of investigation, confession statement was recorded from the arrested accused, which revealed that the petitioner has supplied the contraband to them. Based on which, the petitioner was formally arrested on 09.02.2023, when he was in prison, in connection with another case. Hence the case.



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3. Learned counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that the fact remains is that the petitioner was earlier arrested on 19.08.2022, in connection with Crime No.373 of 2022 registered by D-1 Tiruttani Police Station, Tiruvallur and while he was in custody, the respondent has registered the present case in Crime No.1163 of 2022 on 22.12.2022 and later, based on the confession statement recorded from the arrested accused, the petitioner was implicated in this case and formally arrested on 09.02.2023. He also stated that other than the confession statement recorded from the other accused, no material is available as against the petitioner and there is no recovery from him. He further submitted that the second accused in this case, from whom the alleged contraband was recovered, has been granted bail by this Court in Crl.O.P.No.2692 of 2023 vide order dated 07.02.2023. Learned counsel for the petitioner further submitted that the petitioner was enlarged on bail in Crl.O.P.No.3945 of 2023 with respect to the Crime No.373 of 2022, in which he was earlier arrested, vide order dated 01.03.2023, thereby, he seeks for grant of bail to the petitioner.



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4. Learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner along with other accused was indulged in selling of Ganja and from A1 & A2, 21 kilograms of Ganja were recovered and they have also confessed that the petitioner is the person, who had supplied the Ganja to them, however, there is no recovery from the petitioner. He also submitted that during the registration of case, the petitioner was in custody, in connection with Crime No.373 of 2022, registered by the D-1 Tiruttani Police Station, Thiruvallur. Therefore, he oppose for grant of bail to the petitioner.

5. At this juncture, the learned counsel for the petitioner submitted that the petitioner, without prejudice to his defense and contention, is ready and willing to deposit an amount of Rs.20,000/- to any welfare scheme run by the Government. He further stated that the petitioner is ready to abide by any other stringent conditions that may be imposed by this Court. Hence, he prays for grant of bail to the petitioner.



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6. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and perused the materials available on record.

7. It is the case of the petitioner that he was arrested on 19.08.2022, in connection with Crime No.373 of 2022, registered by the D-1 Tiruttani Police Station, Thiruvallur and that, while he was in judicial custody, the present case has been registered as against A1 & A2 and the petitioner has been arrested, based on the confession recorded from the arrested accused. It is also the further contention of the petitioner that other than the confession recorded from the arrested accused A1 & A2, there is absolutely no material to connect the petitioner to the crime and the second accused, who has been arrested with the contraband has been granted bail by this Court in Crl.O.P.No.2692 of 2023 vide order dated 07.02.2023.

8. On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) to the credit of "The Dean/Medical Officer, Government Head Quarters Hospital, Tiruvallur",



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without prejudice to his rights and contentions before the trial Court.

9. Merely, because the petitioner has deposited the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

10. Taking into consideration the above facts and circumstances of the case and the submissions made by either side of the parties, this Court is of the opinion that the petitioner has satisfied the conditions as required under Section 37 of NDPS Act. Further, on considering the fact that the petitioner has come forward to deposit an amount of Rs.20,000/- to the credit of "The Dean/Medical Officer, Government Head Quarters Hospital, Tiruvallur", this Court is inclined to grant bail to the petitioner with certain conditions.

11. Accordingly, the petitioner is ordered to be released on bail on condition to make a non-refundable deposit of Rs.20,000/- (Rupees Twenty Thousand only) **by way of RTGS/NEFT to the credit of "The Dean/Medical Officer, Government Head Quarters Hospital,**



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Tiruvallur", without prejudice to his rights and contentions before the trial Court, on such deposit and production of proof, 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**, for a like sum to the satisfaction of the **learned Judicial Magistrate No.I, Ambattur**, 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 06.30 p.m., until further orders;

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

[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



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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.

14.03.2023

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To

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



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A.D.JAGADISH CHANDIRA.,J.

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