



Crl.O.P.No.5794 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2023

CORAM

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

Crl.O.P.No.5794 of 2023

1.Shajahan

2.Sajin @ Kannan

... Petitioners

Vs.

The State represented by,
The Sub Inspector of Police,
Salem Railway Police Station,
Salem District.

(Crime No.32 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners/accused on bail, in connection with the
Crime No.32 of 2023, pending on the file of respondent Police.

For Petitioners : Mr.C.Deepakkumar

For Respondent : Mr.C.E.Pratap
Government Advocate (crl.side)



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ORDER

The petitioners, who were arrested and remanded to judicial custody on 20.02.2023 for the offences punishable under Section 8(c) r/w 20(b)(ii)(B) of NDPS Act in Crime No.32 of 2023, on the file of the respondent Police, seek bail.

2. The case of the prosecution is that on receiving a secret information, the respondent Police along with his team went to the scene of occurrence and they found that the petitioners along with yet another accused were in illegal possession of 2 kgs of Ganja. Hence the complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He further submitted that the contraband involved in this case is in-between quantity. He also submitted that the petitioners are in custody from 20.02.2023 and they are prepared to abide by any stringent conditions that may be imposed by this Court. Hence, he prays for grant of bail to the petitioners.



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4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioners along with yet another accused were found in illegal possession of 2 kgs of Ganja. He would further submit that the petitioners have got two previous cases in two different police stations in Kerala. He would also submit that since the petitioners being the resident of Kerala, if the bail granted to the petitioners, there is every possibility of them to abscond which would derail the progress of trial. Hence, he opposed for grant of bail to the petitioners.

5.At this juncture, the learned counsel for the petitioners submitted that the petitioners are ready to furnish blood sureties and without prejudice to their defense and contention, are ready and willing to deposit an amount of Rs.10,000/- to any welfare scheme run by the Government. Hence, he prays for grant of bail to the petitioners.

6.Heard the learned counsel for the petitioners and the learned Government Advocate (crl.side) and perused the materials available on record.



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7. On considering the voluntary submission made by the learned counsel for the petitioners, the petitioner are directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) each to the credit of "The Dean/Medical Officer, Government Mohan Kumaramangalam Medical College Hospital, Salem", without prejudice to their rights and contentions before the trial Court.

8. Merely, because the petitioners have deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

9. Taking into consideration the facts and circumstances of the case, the submissions made by either side and also taking note of the fact that the petitioners have come forward to deposit an amount of Rs.10,000/- to the credit of the "Government Mohan Kumaramangalam Medical College Hospital, Salem", this Court is inclined to grant bail to the petitioners with certain conditions.



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10. Accordingly, the petitioners are ordered to be released on bail on condition to make a non-refundable deposit of Rs.10,000/- (Rupees Ten Thousand only) each **by way of RTGS/NEFT to the credit of "The Dean/Medical Officer, Government Mohan Kumaramangalam Medical College Hospital, Salem"**, without prejudice to their rights and contentions before the trial Court, on such deposit and production of proof, the petitioners are ordered to be released on bail on their executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five 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 Judicial Magistrate No.I, Salem**, 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 petitioners shall report before the respondent Police daily at 6.30 p.m., until further orders;**

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



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[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

27.03.2023

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To

1. The Judicial Magistrate No.I,
Salem.
2. The Sub Inspector of Police,
Salem Railway Police Station,
Salem District.
3. The Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

Vkr

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