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Crl.O.P.No.5767 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2023

CORAM

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

Crl.O.P.No.5767 of 2023

Rajesh Kannan

... Petitioner

Vs.

State represented by
The Inspector of Police,
Sulur Police Station,
Coimbatore District.

(Crime No.287 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending investigation in C.C.No.148
of 2022 on the file of the Learned Additional District Judge / Presiding
Officer, Special Court for Essential Commodities Act cases, Coimbatore.

For Petitioner : Mr.S.Suresh

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 01.12.2022, for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C) and 29(1) of NDPS Act in Crime No.287 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that based on the secret information the respondent police went to the scene of occurrence and conducted a search. At that time, the respondent police seized 50 kg of ganja from A1. Based on the confession statement of A1, this petitioner was arrayed as an accused who said to have purchased the ganja from Theni District. Hence, the complaint.

3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. The learned counsel further submitted that the petitioner other than the confession statement recorded from A1, there is no other material to connect the petitioner to the alleged offence and he is in judicial custody from 01.12.2022. He also submitted that investigation is completed and the case is



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posed for trial. Hence, he prayed to grant bail to the petitioner.

4. Learned Government Advocate (Crl.side) appearing for the respondent police would submit that the respondent police seized 50 kg of ganja from A1. Based on the confession of A1, this petitioner was arrayed as an accused who said to have purchased the ganja from Theni District. He also submitted that the petitioner is involved in another Cr.No.533 of 2022, under Section 8(C), read with Section 20(b)(ii)(C), 29 of NDPS Act, however, there was no recovery from him in that case also. Hence, he vehemently opposed to grant 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.25,000/- to any welfare scheme run by the Government. Hence, he prays for grant of bail to the petitioner.

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



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record.

7. On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the credit of " **The Government Medical Hospital, Coimbatore**", without prejudice to his rights and contentions before the trial Court.

8. 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.

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 petitioner has also satisfied the twin conditions required under Section 37 of NDPS Act and also considering that the petitioner has come forward to deposit an amount of Rs.25,000/- to the credit of "**The Government Medical Hospital, Coimbatore**", this Court is inclined to grant bail to the petitioner with certain conditions.



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10. Accordingly, the petitioner is ordered to be released on bail on condition to make a non-refundable deposit of Rs.25,000/- (Rupees Twenty Five Thousand only) by way of **Demand Draft/RTGS/NEFT to "The Government Medical Hospital, Coimbatore"** 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**, each for a like sum to the satisfaction of the learned **the Additional District Judge / Presiding Officer, Special Court for Essential Commodities Act Cases, Coimbatore.** 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 on everyday at 10.30 a.m., for a period of two weeks and thereafter on every Saturday at 10.30 a.m., until further orders.

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



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[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 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.

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To

1. The Additional District Judge / Presiding Officer,
Special Court for Essential Commodities Act Cases,
Coimbatore.
2. The Inspector of Police,
Sulur Police Station,
Coimbatore District.
3. The Central Prison,
Coimbatore.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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