



Crl.O.P.No.5899 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2023

CORAM

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

Crl.O.P.No.5899 of 2023

Sundar @ Mani

... Petitioner

Vs.

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

(Crime No.26 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,

pleased to enlarge the petitioner on bail, in connection with the Crime No.26

of 2023, pending investigation on the file of the respondent Police.

For Petitioner : Mr.B.Vasudevan

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 14.02.2023 for the offences under Section 8(c) r/w 20(b)(ii)(B), 29(1) of



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NDPS Act in Crime No.26 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on the date of occurrence, based on secret information, the respondent police went to scene of occurrence and the petitioner along with other accused was found in illegal possession of 4 kgs of Ganja. Hence, the case.

3. Learned Counsel for the petitioner submitted that the petitioner is an innocent person and based on the confession statement recorded from A1, he has been falsely implicated in this case. He further submitted that the petitioner, other than travelling along with A1, has not committed any offence as alleged by the prosecution. He also submitted that the contraband involved in this case is in-between quantity and he is in judicial custody from 14.02.2023. Hence, he prays for grant of bail to the petitioner.

4. Learned Additional Public Prosecutor appearing for the respondent police submitted that the petitioner along with A1 was found in unlawful possession of 4 kgs of Ganja, while he was travelling in the train.



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He further submitted that there is no previous case pending against the petitioner. He also submitted that the major part of the investigation has been completed. Hence, he opposed 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.10,000/- 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.

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

7. In order to curb the illegal activities of transporting illicit arrack, this Court is of the opinion that the petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as non refundable deposit to "The Dean/Medical Officer, Government Mohan Kumaramangalam Medical College Hospital, Salem District", without prejudice to his rights and contentions before the trial Court.



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8. Merely, because the petitioner deposits 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 of the parties and the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is ordered to be released on bail on condition to make a non refundable deposit of **Rs.10,000/- (Rupees Ten Thousand only)** by way of Demand Draft/RTGS/NEFT to the "The Dean/Medical Officer, Government Mohan Kumaramangalam Medical College Hospital, Salem District" 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**, (out of which one surety should be a blood related surety and should produce document to show his/her means) each for a like sum to the satisfaction of



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the learned Special Judge for EC/NDPS Act cases, 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 petitioner shall report before the respondent Police, daily at 10.30 a.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 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.

15.03.2023

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To

- 1.The Special Judge for EC/NDPS Act cases,
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.

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