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Crl.O.P.No.5999 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2023

CORAM

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

Crl.O.P.No.5999 of 2023

Raja @ Gundu Raja

... Petitioner

Vs.

The State rep by
The Inspector of Police,
Variety Hall Road Police Station
Coimbatore.
(Crime No.153 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.153 of 2022 pending
investigation on the file of the respondent police.

For Petitioner : Mr.T.Muruganantham

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 28.10.2022, for the offences punishable under Sections 8(c) r/w 20 (b) (ii)
(c) and 29(1) of NDPS Act, in Crime No.153 of 2022 on the file of the
respondent police, seeks bail.



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2. The case of the prosecution is that on 29.07.2022 at about 9.30 a.m., the Sub Inspector of Police attached to the respondent police station along with his team intercepted the accused persons during which, A1 was found in possession of 15.100 kgs. of Ganja and A2/the petitioner was found in possession of 14.900 kgs. of Ganja. Hence, this case.

3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case based on the confession alleged to have been recorded from A1 from whom the contraband which is a commercial quantity was recovered and that A1 has already been granted bail. Further, he would submit that the respondent police have completed the investigation and filed final report and even as per the final report, other than the confession statement, no other material was produced by the respondent to fix this petitioner in this case. He would further submit that on coming to know about the case, the petitioner had voluntarily surrendered before the Special Court and he has been in judicial custody from 29.07.2022. Hence, he would pray to grant bail to the petitioner.



4. Learned Government Advocate (Crl. Side) appearing for the respondent police opposed for grant of bail to the petitioner stating that the case is posted for appearance of the other accused and the petitioner has got two previous cases of similar in nature.

5. At this juncture, the learned counsel for the petitioner would submit that even in the said two previous cases, the petitioner was alleged to have been found in possession of only 1.300 kgs. and 2.250 kgs. of Ganja and that the petitioner is ready to abide by any stringent condition that may be imposed by this Court. Hence, he would pray 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 record and also the counter filed by the respondent police.

7. In order to curb the illegal activities of selling and smuggling of Contraband, this Court is of the opinion that **the petitioner** shall deposit a sum of **Rs.30,000/- (Rupees Thirty Thousand Only)** as non refundable



deposit to **"the Medical Officer, Government Medical College and Hospital, Coimbatore"**, without prejudice to his rights and contentions before the trial Court.

8. Merely, because the petitioner 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 of the parties and the fact that the main accused/A1 has already been granted bail and also considering 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.30,000/- (Rupees Thirty Thousand only)** by way of **Demand Draft/RTGS/NEFT** to **"the Medical Officer, Government Medical College and 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**, for a like sum to the satisfaction of the **learned 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 learned Special Court for Essential Commodities Act Cases, Coimbatore, on all working days 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]***;



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[f] If the accused thereafter abscond, a fresh FIR
can be registered under Section 229A IPC.

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To

1. The Judge, Special Court for Essential Commodities Act Cases,
Coimbatore.
2. The Inspector of Police,
Variety Hall Road Police Station
Coimbatore.
3. The Superintendent,
Central Prison, Coimbatore.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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