



Crl.O.P.No.6406 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.6406 of 2023

1.Santhosh

2.Selvam @ Citizen

3.Uma

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
H1-Washermenpet Police Station,
Chennai District.

(Crime No.39 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.39 of 2023, pending on the file of respondent Police.

For Petitioners : Mr.R.Thulasi Manikandan

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 25.01.2023 for the offences punishable under Sections 8(c), 20(b)(ii)(B), 29(1) of NDPS Act, in Crime No.39 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 other accused were in illegal possession of 2.2 kgs of Ganja. Hence the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that the petitioners are arrayed as A2 to A4 and even as per the prosecution, the contraband is stated to have been recovered from A1 and A6. He would further submit that the contraband involved in this case is in-between quantity. He would further submit that the fact remains is that the petitioners have got some previous cases against them and only in order to put the petitioners under fetters, the respondent has



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registered a false case against the petitioners. He would further submit that based on the confession statement recorded from the other accused, the contraband has been recovered. He would also submit that the petitioners are in judicial custody from 25.01.2023 and hence, he prays for grant of bail to the petitioners.

4.The respondent has filed a detailed counter.

5.The learned Government Advocate (crl.side) for the respondent submitted that the petitioners along with other accused were involved in trading of 12.5 kgs of Ganja. He would further submit that all the petitioners have got few cases under NDPS Act, thereby, he opposed for grant of bail to the petitioners.

6.At this juncture, the learned counsel for the petitioners submitted that the petitioners, without prejudice to their defense and contention, are ready and willing to deposit an amount of Rs.25,000/- each to any welfare scheme run by the Government. Hence, he prays for grant of bail to the petitioners.



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

8. On considering the voluntary submission made by the learned counsel for the petitioners, the petitioners are directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five thousand only) each as a non refundable deposit to "**The Government Kilpauk Medical College Hospital, Kilpauk, Chennai**", without prejudice to their rights and contentions before the trial Court.

9. 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.

10. Taking into consideration the facts and circumstances of the case, the submissions made by either side and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

11. Accordingly, the petitioners are ordered to be released on bail



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on condition to make a non refundable deposit of **Rs.25,000/- (Rupees Twenty Five thousand only)** each by way of **Demand Draft/RTGS/NEFT** to the **"The Government Kilpauk Medical College Hospital, Kilpauk, Chennai, "Hospital Maintenance Fund", Canara Bank, Kilpauk Branch, A/c.No.1650101005396, IFSC Code : CNRB0001650, MICR Code : 600015050"** 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.10,000/- (Rupees Ten Thousand only)** each with **two sureties**, each for a like sum to the satisfaction of the **learned Special Judge for NDPS Act cases, Chennai** 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;

[d] the petitioners shall not tamper with



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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 Special Judge for NDPS Act cases,
Chennai.
2. The Inspector of Police,
H1-Washermenpet Police Station,
Chennai District.
3. The Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

Vkr

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