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Crl.O.P.No.6670 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2023

CORAM

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

Crl.O.P.No.6670 of 2023

1.Mohammed Rafi @ Metai Rafi

2.Shagarunnisha @ Nisha

... Petitioners

Vs.

The State represented by,
The Inspector of Police,
F3 Nungambakkam Police Station,
Chennai.

(Crime No.27 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.27 of 2023 on the file of
the respondent police.

For Petitioners : Mr.S.Lokesh

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



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ORDER

The petitioner, who were arrested and remanded to judicial custody on 18.02.2023, for the offences punishable under Sections 8(c) , 20(b)(ii)(B), 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.27 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 18.02.2023 at 15.15 hours, the Sub Inspector of Police received a secret information that two persons were selling ganja and based on such information, the Sub Inspector of Police along with his team went to the place of occurrence and secured the 2nd accused but the 1st accused escaped from the spot. Further, they seized 1.200 kgs of ganja in a polythene bag from the 2nd accused under the cover of seizure mahazar. Based on the above, a case was registered in F3, Nungambakkam Police Station in Crime No.27 of 2023 for the offences under sections 8(c) r/w. 20(b)(ii)(B), 29(1) of NDPS Act. Hence the case.

3. Learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. He further submitted that the petitioners are in custody from



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18.02.2023. Hence, he prayed to grant bail to the petitioners.

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4. Learned Government Advocate (CrI.Side) appearing for the respondent police submitted that the petitioners are husband and wife, who were found to be in possession of 1.200 kgs of ganja. He would submit that as far as the first petitioner is concerned, he has got 8 previous cases, out of which, two cases are similar in nature and as far as the second petitioner is concerned, she has got 3 previous cases. Hence, he opposed to grant bail to the petitioners.

5. The respondent police has filed a detailed counter.

6. At this juncture, the learned counsel for the petitioners submitted that the petitioners, without prejudice to their defense and contentions, they are ready and willing to deposit an amount of Rs.35,000/- to any welfare scheme run by the Government.

7. Heard the learned Counsel for the petitioners and the learned Government Advocate(CrI.Side) and perused the materials available on record.

8. On considering the voluntary submission made by the learned counsel for the petitioners, the first petitioner is directed to deposit a sum of



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Rs.25,000/- (Rupees Twenty Five Thousand only) and the second petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of "MANASU, CSB Bank, Pallavaram Branch, A/C.No.024404406764190001,IFSC : CSBK0000244.", 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 of the parties and also taking note of the fact that the petitioners have come forward to deposit an amount of Rs.35,000/- to the credit of the "MANASU, CSB Bank, Pallavaram Branch A/C.No.024404406764190001,IFSC : CSBK0000244.", this Court is inclined to grant bail to the petitioners with certain conditions.

11. Accordingly, the first petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) and the second petitioner



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is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as non-refundable deposit, **by way of RTGS/NEFT to the credit of "MANASU, CSB Bank, Pallavaram Branch, A/C.No.024404406764190001, IFSC : CSBK0000244."**, 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 executing a separate 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 XIV Metropolitan Magistrate Court, Egmore, 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, everyday at 10.30 a.m., until further orders;

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

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;



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[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.

29.03.2023

mpa

To

1. The XIV Metropolitan Magistrate Court, Egmore, Chennai.
- 2.The Inspector of Police,
F3 Nungambakkam Police Station,
Chennai.
3. The Central Prison
Puzhal II.
- 4.Central Prison, Women Special Jail, Puzhal.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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