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Crl.O.P.No.7146 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.04.2023

CORAM:

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

Crl.O.P.No.7146 of 2023

Yasar Arafath

.. Petitioner

/versus/

State rep.by

The Inspector of Police,
PEW Anna Nagar Police Station,
Chennai District.
(Crime No.151 of 2023)

.. Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, praying to enlarge the petitioner on bail in Crime No.151 of 2023 on the file of Inspector of Police, PEW Anna Nagar Police Station, Chennai District.

For Petitioner : Mr.S.Mohamed Ansar

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 20.02.2023, for the offences punishable under Sections 8(C) r/w.20(b)(ii)(B) of NDPS Act, 1985, in Crime No.151 of 2023, on the



file of the respondent police, seeks bail.

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2. The case of the prosecution is that the petitioner was found in possession of 3.5 kgs of Ganja. Hence the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that even otherwise, the quantity of contraband, recovered from the petitioner is an intermediate quantity and that the petitioner has been in judicial custody for almost 60 days and thereby, he prays to grant bail to the petitioner.

4. The respondent has filed a detailed counter.

5. The learned Government Advocate (Crl.Side) would submit that the petitioner is a habitual offender against whom there is a previous case registered by the Erode police for similar nature of offence for having been found in possession of 1.1 kgs of Ganja. Hence, he opposed for grant of bail to the petitioner.



6. In reply, the learned counsel for the petitioner would submit that even in the previous case, the petitioner was arrested only based on the confession recorded from the co-accused and no recovery has been made from the petitioner in the said case. He would submit that the petitioner is ready to abide any stringent condition that may be imposed on him.

7. Heard the learned Counsel for the petitioner 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 petitioner, the petitioner is directed to deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) to the credit of "Manonmani Trust", without prejudice to his rights and contentions before the trial Court.

9. 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.



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10. Taking into consideration the facts of the case and the submissions made by the learned counsel and also considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

11. Accordingly, the petitioner is ordered to be released on bail on condition to make a non-refundable deposit of Rs.20,000/- (Rupees Twenty Thousand only) by way of **RTGS/NEFT to the credit of "Manonmani Trust, Account Number : 9945983362, IFSC Code : KKBK0000469, Kotak Mahindra Bank, Anna Nagar Branch"**, 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 Principal Special Judge under EC & NDPS Act, 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



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Bank pass Book to ensure their identity;

[b] the petitioner shall report before the respondent police everyday 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.

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Speaking Order / Non-Speaking Order

Index : yes/no

Internet : yes/no

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A.D.JAGADISH CHANDIRA,J.

mpa

To

- 1.The Principal Special Judge under EC & NDPS Act, Chennai.
- 2.The Central Prison-II, Puzhal, Chennai.
- 3.The Inspector of Police,
PEW Anna Nagar Police Station,
Chennai District.
- 4.The Public Prosecutor,
High Court, Madras.

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