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Crl.O.P.No.7236 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.7236 of 2023

Venkatesh @ Kishore

... Petitioner

Vs.

The State Represented by
The Inspector of Police
PEW Pallikaranai Police Station
Chennai.
(Crime No.37 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.37 of 2023 pending
investigation on the file of the respondent police.

For Petitioner : Mr.J.Dinesh

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 06.02.2023, for the offences punishable under Section 8(c) r/w 20(b) (ii)
(B) of NDPS Act, 1985, in Crime No.37 of 2023 on the file of the respondent
police, seeks bail.



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2. The case of the prosecution is that on 06.02.2023, based on a secret information, when the respondent police intercepted the accused persons, the petitioner/A1 and A2 were found in possession of 2 kgs. of Ganja each, and A3 was found in possession of 1 kg. 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 and that the petitioner is a college student studying B.Com 1st year in St.Peter's College, Avadi. He would further submit that the co-accused/A2 has been enlarged on bail by the Principal Special Court under EC & NDPS Act, Chennai and that the petitioner has been suffering incarceration from 06.02.2023. 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 petitioner along with other was found in possession of 5 kgs. of Ganja and the petitioner has got one previous case of similar nature.

5. At this juncture, the learned counsel for the petitioner would submit that as per the prosecution, the petitioner was found in possession of



only 2 kgs. of Ganja. However, without prejudice, the petitioner is ready and willing to deposit a sum of Rs.15,000/- as non- refundable deposit to any welfare scheme of the Government as may be directed by this Court and prayed 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.

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.15,000/- (Rupees Fifteen Thousand Only)** as non refundable deposit to **"the Medical Officer, Government Hospital, Chrompet, Chennai"**, 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 and the submissions made on either side of the parties and the fact that the petitioner is a college student 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.15,000/- (Rupees Fifteen Thousand only)** by way of **Demand Draft/RTGS/NEFT** to the **"the Medical Officer, Government Hospital, Chrompet, Chennai"** 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 shall be the Father or Mother of the petitioner**, for a like sum to the satisfaction of the **learned Judicial Magistrate-I, Tambaram**, 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, everyday at 6.30 p.m. until further orders;

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



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[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.

31.03.2023

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To

1. The Judicial Magistrate No.I,
Tambaram.
2. The Inspector of Police
PEW Pallikaranai Police Station
Chennai.
3. The Superintendent,
Central Prison-II, Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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