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Crl.O.P.No.7239 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

CORAM

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

Crl.O.P.No.7239 of 2023

Sarbeswar Das

... Petitioner

Vs.

The State rep. by  
The Special Sub Inspector of Police,  
Jolarpet Police Station,  
GRP Chennai District.

Crime No.27 of 2023

... Respondent

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

For Petitioner : Mr.S.V.Karthikeyan

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



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### **ORDER**

The petitioner, who was arrested and remanded to judicial custody on 16.02.2023 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act in Crime No.27 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 16.02.2023 at about 10.00 hours, on receipt of a secret information about the illegal transportation of Narcotic substance, the Special Sub Inspector of Police along with his team went to the place of occurrence, wherein, A1 and A2 was found in illegal possession of 9 kgs of dry ganja and the respondent have arrested the accused and seized the contraband under the cover of seizure mahazar and registered a case in Crime No.27 of 2023 under Sections 8(c) r/w 20(b)(ii)(B) Narcotic Drugs and Psychotropic Substances Act, 1985. Later, based on the confession recorded from A1 and A2 that the petitioner herein/A3 was waiting at the Tirpur Railway Station to purchase the said contraband from A1 and A2, for which, the petitioner has been implicated in this case. Hence the case.



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3. Learned Counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case, based on the confession statement recorded from A1 and A2. He further submitted that as per the confession statement recorded from A1 and A2, the accused had stated that the ganja was transported from Odisha to be handed over to the petitioner. He also submitted that the petitioner is in judicial custody from 16.02.2023, hence, he prayed for grant of bail to the petitioner.

4. The respondent has filed a detailed counter.

5. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that on 16.02.2023, A1 and A2 were arrested for having possession of 9 kgs of Ganja and they have confessed that they were on the way to hand over the same to the petitioner. He further submitted that the petitioner is a resident of Odisha. Hence, he opposed for grant of bail to the petitioner.

6. In reply, the learned counsel for the petitioner submitted that one



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of the blood relative is ready to stand as surety to the petitioner and the petitioner is also ready to furnish the details of his permanent residence at the time of executing sureties. Hence, he prays for grant of bail to the petitioner.

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

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

9. Accordingly, the petitioner is ordered to be released on bail on his executing a separate bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** with **two sureties** (out of which, one should be the blood surety), each for a like sum to the satisfaction of the **learned Judicial Magistrate No.II, Salem** and on further conditions that:



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[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 should produce the proof of his permanent residence and the learned trial Judge shall satisfy himself with regard to the same;**

**[c] the petitioner shall report before the respondent Police, everyday at 10.30 a.m., until further orders;**

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

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial;

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

**20.04.2023**

*vkr*

To

1. The Judicial Magistrate No.II,  
Salem.
2. The Special Sub Inspector of Police,  
Jolarpet Police Station,  
GRP Chennai District.
3. The Central Prison, Salem.
4. The Public Prosecutor,  
High Court of Madras.



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**A.D.JAGADISH CHANDIRA.,J.**

*vk*

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