



Crl.O.P.No.7864 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

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

Crl.O.P.No.7864 of 2023

S.Suresh

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
NIB CID,
Kancheepuram.

(Crime No.27 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner/accused on bail, in C.C.No.132 of 2023,
pending before the learned I Additional Special Judge for EC & NDPS Act,
Chennai.

For Petitioner : Mr.R.Chakkaravarthy

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

ORDER



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The petitioner, who was arrested and remanded to judicial custody on 19.08.2022, for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C) and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.27 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 19.08.2022 at about 05.00a.m., the Inspector of Police, on receipt of a secret information about the illegal sale of ganja, had entered the same in the General Diary and went to the scene of occurrence, i.e., near New Bus Stand, Chengalpet, along with his police team, wherein, they found that the accused persons to be in illegal possession of 22 kilograms of ganja in their travel bag and the same was seized under the cover of seizure mahazar in the presence of witnesses and arrested the accused. During the course of investigation a confession was recorded from the first accused, in which he stated that he had purchased the contraband from Andhrapradesh and sold the same at Mamallapuram, in and around areas of Chengalpet. Hence the case.

3. Learned counsel for the petitioner submitted that the petitioner, who is arrayed as A1 in this case, is an innocent person and he has been



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falsely implicated in this case. He further submitted this is the second bail application of the petitioner before this Court and the earlier bail application was dismissed as withdrawn. He also submitted that though the respondent claims that about 22 kilograms of contraband were stated to have been recovered from the petitioner and the other accused, whereas, only 16 kilograms of dry ganja was recovered from both of them, which come only under Intermediate quantity and the remaining 6 kilograms was recovered from A2. He also submitted that the investigation has been completed and the case has also been taken up on the file of the learned I Additional Special Judge for EC & NDPS Act, Chennai, in C.C.No.132 of 2023. He further submitted that the petitioner is in custody from 19.08.2022 and hence, he prayed for grant of bail to the petitioner.

4. The respondent has filed a detailed counter and the relevant portion in respect of the specific overt-act of the accused in this case is extracted here under:

S.No.	Accused	Contraband seized	Commercial / Non-commercial	NDPS Schedule No	Chemical Report
1	A-1 & A-2	16 kg of dry ganja	Intermediate quantity	155	Obtained



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S.No.	Accused	Contraband seized	Commercial / Non-commercial	NDPS Schedule No	Chemical Report
2	A-2	6 kg of dry ganja	Intermediate quantity	154	Obtained

5. Learned Government Advocate (CrI.Side) submitted that the petitioner (A1) and A2 are friends and the respondent have found that they were in illegal possession of dry ganja and from A1 & A2, 16 kilograms of dry ganja were recovered and from A2, 6 kilograms of dry ganja were recovered and the seized contraband totally come under a commercial quantity. He also submitted that the investigation has been completed and the case has also been taken up on the file of the learned I Additional Special Judge for EC & NDPS Act, Chennai, in C.C.No.132 of 2023 and there are 6 witnesses in this case and the case now stands posted on 27.04.2023 for furnishing copies. Hence, he object for grant of bail to the petitioner.

6. In reply, the learned counsel for the petitioner submitted that the respondent, in their counter, have not stated anything about the nexus between the petitioner and A2 and further, in paragraph 5 of the counter, it is stated that only 16 kilograms of ganja has been recovered from the petitioner



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and the respondent has also stated that it is an intermediate quantity. He further submitted that the petitioner has satisfied the twin conditions as required under Section 37 of NDPS Act and thereby, the petitioner is entitled for bail.

7. Further, the learned counsel for the petitioner submitted that the petitioner, without prejudice to his defence and contention, is ready and willing to make a non-refundable deposit of Rs.25,000/- to any welfare scheme. He further stated that the petitioner is ready to abide by any other stringent conditions that may be imposed by this Court. Hence, he prays for grant of bail to the petitioner.

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

9. On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of "Charu



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Home for Aged", without prejudice to his rights and contentions before the trial Court.

10. 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.

11. Taking into consideration the facts of the case and the submissions made by the learned counsel on both sides and also considering the counter filed by the respondent and since, it is stated by the respondent that the alleged contraband recovered from the petitioner is an intermediate quantity and taking note of the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

12. Accordingly, the petitioner is ordered to be released on bail on condition to make a non-refundable deposit of Rs.25,000/- (Rupees Twenty Five Thousand only) by way of **RTGS/NEFT to the credit of "Charu Home for Aged, Account Number : 2771201000291, IFSC Code :**



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CNRB0002771, Canara Bank, Mahila Br., T.Nagar Chennai - 17",

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 this executing a bond for a sum of **Rs.10,000/- (Rupees Ten thousand only)** with **two sureties** (out of which one surety should be a blood related surety and should produce document to show his/her means), each for a like sum to the satisfaction of the learned **Judicial Magistrate-I, Chengalpet**, 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 appear before the learned I Additional Special Judge for EC & NDPS Act, Chennai, on all working days at 10.30 a.m., for a period of four weeks and thereafter, on the dates fixed by the learned trial Judge;

[c] the petitioner shall not abscond during trial;

[d] the petitioner shall not tamper with evidence or witness during trial;

[e] On breach of any of the aforesaid conditions,



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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.

25.04.2023

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To

1. The Judicial Magistrate No.I,
Chengalpet.
2. The I Additional Special Judge for EC & NDPS Act,
Chennai.
3. The Inspector of Police,
NIB CID,
Kancheepuram.
4. The Central Prison,
Puzhal, Chennai.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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