



Crl.O.P.No.8380 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2023

CORAM

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

Crl.O.P.No.8380 of 2023

Nithishkumar

... Petitioner

Vs.

State Rep. By
The Sub Inspector of Police,
Vellore Police Station,
NIB-CID District.
(Crime No.08 of 2023)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in connection with the case in Crime
No.08 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 16.01.2023, for the offences punishable under Sections 8(c) r/w 20(b) (ii) (B) of NDPS Act, in Crime No.08 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 10.03.2023, the petitioner was found in possession of 10 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. Even as per the prosecution version, the quantity of contraband alleged to have been recovered from the petitioner is only 10 kgs. which is an intermediate quantity. He further submitted that the petitioner has been in judicial custody from 16.01.2023 and he is ready to abide by any stringent conditions as may be imposed on him. He also submitted that the petitioner is ready and willing to deposit a substantial amount to any charitable institution as may be directed by this Court without prejudice to his rights and defence before the trial Court. Hence, he prayed for grant of bail to the petitioner.



4. The learned Government Advocate (Criminal Side) appearing for the respondent police vehemently opposed to grant bail to the petitioner stating that the petitioner was found in possession of 10 kgs of Ganja, however, he would submit that there is no previous case against the petitioner.

5. The respondent police has filed a detailed counter.

6. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondent police and perused the materials available on record including the FIR and the counter filed by the respondent police.

7. Considering the facts and circumstances of the case and 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 of bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is directed to deposit a sum of **Rs.20,000/- (Rupees Twenty Thousand only)** by way of **RTGS/NEFT** to



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the credit of "**The Satkaarya Trust Orphanage No.10/46, Periyar Street, Thenpalani Nagar, Kolathur, Chennai – 600 099 ICICI Bank Kilpauk Branch A/c.No. 027801002323 IFSC Code No. ICIC0000278,** 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 Additional District Judge/Presiding Officer, Special Court for Essential Commodities Act Cases, Salem,** 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 10.30 a.m. until further orders;

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



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[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]*;

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

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To

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1. The Additional District Judge/Presiding Officer, Special Court for Essential Commodities Act Cases, Salem.
2. The Sub Inspector of Police,
Vellore Police Station,
NIB-CID District.
3. The Central Prison, Salem.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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