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Crl.O.P.No.8378 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.8378 of 2023

1.Motilal Nag
2.Debaraj Deep

... Petitioners

Vs.

State Rep. By
The Station House Officer,
NIB-CID Villupuram.
(Crime No.5 of 2023)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail in connection with the case in
Crime No.05 of 2023 on the file of the respondent police.

For Petitioners : Mr.S.V.Karthikeyan

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



ORDER

The petitioners, who were arrested and remanded to judicial custody on 11.03.2023, for the offences punishable under Sections 8(c) r/w 20(b) (ii) (B), 29(1) of NDPS Act, in Crime No.05 of 2023 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 11.03.2023, the petitioners were found in possession of 3 kgs. of Ganja. Hence, the case.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they are native of Odisha and that they have been falsely implicated in this case. Even as per the prosecution version, the quantity of contraband alleged to have been recovered from the petitioners are only 3 kgs. which is an intermediate quantity and that the petitioners have got other case against them. He further submitted that the petitioners have been in judicial custody from 11.03.2023 and they are ready to abide by any stringent conditions and also ready to furnish blood sureties. Hence, he prayed for grant of bail to the petitioners.



4. The learned Government Advocate (Criminal Side) appearing for the respondent police vehemently opposed to grant bail to the petitioners stating that the petitioners were found in possession of 1.500 kgs of Ganja each. and that they are native of Odisha.

5. The respondent police has filed a detailed counter.

6. Heard the learned Counsel for the petitioners 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 petitioners, this Court is inclined to grant of bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are directed to deposit **Rs.10,000/- (Rupees Ten Thousand only) each** by way of **RTGS/NEFT to the credit of "Rehoboth - Home for Mentally Challenged Homeless Women, No.22,**



Viswas Nagar, Koluthuvancherri, Paraniaputhur, Chennai, Punjab National Bank , Moulivakkam Branch, Account No. 05812010015060, IFSC Code : PUNB0058110 MICR Code : 600024081, without prejudice to their rights and contentions before the trial Court, on such deposit and production of proof, the petitioners are ordered to be released on bail on their executing separate bonds for a sum of **Rs.10,000/- (Rupees Ten Thousand Only)** with **two sureties, out of which, one shall be a blood relative of the petitioners, each** for a like sum to the satisfaction of the **learned Special Court for Trial of NDPS Act Cases, Villupuram**, 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 petitioners shall report before the respondent police everyday at 10.30 a.m. until further orders;

[c] at the time of furnishing sureties, the blood related surety shall convince the learned Magistrate with regard to his/her permanent residence;



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

[e] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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

1. The Special Court for Trial of NDPS Act Cases, Villupuram.
2. The Station House Officer,
NIB-CID Villupuram.
3. The Central Prison, Cuddalore.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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