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CrI.O.P.No.8510 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

CORAM

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

CrI.O.P.No.8510 of 2023

P.Senthilkumar

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
Ulundurpet PEW Police Station,
Kallakurichi District.

Crime No.21 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in pending investigation in Crime
No.21 of 2023 on the file of the respondent police.

For Petitioner : Mr.D.Arun

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



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CrI.O.P.No.8510 of 2023

ORDER

The petitioner, who was arrested and remanded to judicial custody on 10.02.2023 for the offences punishable under Section 8(c) r/w 20(b)(ii)(B) of NDPS Act, 1985 in Crime No.21 of 2023, on the file of the respondent Police, seeks bail.

2.The case of the prosecution is that on 09.02.2023 at about 14.00 hours, on receipt of a secret information about the illegal sale of Ganja, the respondent Police along with his team went to the place of occurrence, wherein, A1 was found in illegal possession of 10 kgs of 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.21 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, the petitioner and two others were arrested and from the petitioner, 150 grams of Ganja was recovered. Hence the case.

3. Learned Counsel for the petitioner submitted that the petitioner



CrI.O.P.No.8510 of 2023

is an innocent person and he has been falsely implicated in this case, based on the alleged confession statement stated to have been recorded from A1, who was arrested with 10 kgs of Ganja. He further submitted that even as per the confession recorded from A1, he has stated that he has handed over a small quantity of ganja to the petitioner to be sold in open market. He also submitted that the petitioner is in judicial custody from 10.02.2023 for more than 70 days. Hence, he prayed for grant of bail to the petitioner.

4.The respondent has filed a detailed counter and the specific overtact of the petitioner is extracted hereunder:-

<i>S.No.</i>	<i>Accused</i>	<i>Contraband seized</i>	<i>Commercial/ Non commercial</i>	<i>NDPS Schedule No</i>	<i>Chemical Report</i>
1	P.Senthilkumar /A2	150 grams of Ganja	Intermediate Quantity	55	Vide Villupuram/ Bo.Po.No.60 of 2023 dated 28.02.2023

5. Learned Government Advocate (CrI.Side) appearing for the respondent police submitted that A1 in this case was arrested on 09.02.2023 along with 10 kgs of Ganja and he has confessed that he used to hand over a small quantity of ganja to the petitioner and the petitioner was used to sell it



Crl.O.P.No.8510 of 2023

in the open market. Thereafter, the petitioner was arrested on the next day, i.e., on 10.02.2023 along with 150 grams of Ganja. He submitted that there are two previous cases pending against the petitioner, out of which, one case is similar in nature. Hence, he opposed for grant of bail to the petitioner.

6. At this juncture, the learned counsel for the petitioner submitted that the petitioner, without prejudice to his defense and contention, is ready and willing to deposit an amount of Rs.10,000/- to any welfare scheme run by the Government. He further stated that the petitioner is in judicial custody from 10.02.2023 and 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. On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of **"the Dean/Medical Officer, Government Medical College and Hospital, Kallakurichi District"** without prejudice to his rights and contentions before



9. 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.

10. Taking into consideration the facts and circumstances of the case, the submissions made by either side of the parties and also taking note of the fact that the petitioner has come forward to deposit an amount of Rs.10,000/- to the credit of the **"the Dean/Medical Officer, Government Medical College and Hospital, Kallakurichi District"**, this Court is inclined to grant bail to the petitioner with certain conditions.

11. Accordingly, the petitioner is ordered to be released on bail on condition to make a non-refundable deposit of Rs.10,000/- (Rupees Ten Thousand only) by way of RTGS/NEFT directly to the credit of **"the Dean/Medical Officer, Government Medical College and Hospital, Kallakurichi District"**, without prejudice to his rights and contentions before the trial Court, on such deposit and production of proof, the petitioner



CrI.O.P.No.8510 of 2023

is ordered to be released on bail on her 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 Special Judge for NDPS Act cases, Villupuram District** 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;

[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]***;

[g] If the accused thereafter abscond, a fresh



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CrI.O.P.No.8510 of 2023

FIR can be registered under Section 229A IPC.

25.04.2023

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To

1. The Special Judge for NDPS Act cases,
Villupuram.
2. The Inspector of Police,
Ulundurpet PEW Police Station,
Kallakurichi District.
3. The Central Prison, Cuddalore.
4. The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.8510 of 2023

A.D.JAGADISH CHANDIRA.,J.

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Crl.O.P.No.8510 of 2023

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