



Crl.O.P.Nos.8750 and 12526 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

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

Crl.O.P.Nos.8750 and 12526 of 2023

Selvam @ Mariselvam ... Petitioner in Crl.O.P.No.8750 of 2023

Sethu @ Sethuraman ... Petitioner in Crl.O.P.No.12526 of 2023

Vs.

State Rep. by
Inspector of Police,
S-7, Madipakkam Police Station,
Chennai.

... Respondent in both Crl.O.Ps

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail concerned in Crime No.84 of
2023 on the file of the respondent.

For Petitioner
in Crl.O.P.No.8750 of 2023: Mr.Sankara Subu

For Petitioner
in Crl.O.P.No.12526 of 2023: Mr.N.Nishar Ahamed

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



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COMMON ORDER

The petitioner in Crl.O.P.No.8750 of 2023 , who was arrested and remanded to judicial custody on 01.03.2023 for the offences punishable under Sections 8(c) r/w20(b)(ii)(C), 29(l), 25, 27A of NDPS Act in Crime No. 84 of 2023 on the file of the respondent police, seeks bail.

2. The petitioner in Crl.O.P.No.12526 of 2023 , who was arrested and remanded to judicial custody on 02.03.2023 for the offences punishable under Sections 8(c) r/w20(b)(ii)(C), 29(l), 25, 27A of NDPS Act in Crime No. 84 of 2023 on the file of the respondent police, seeks bail.

3. The case of the prosecution is that on 26.02.2023 at about 14 hours, based on secret information, the respondent/Police went to the spot and they had intercepted one Mahindra Car bearing Registration No.1417/TUV800 and out of 4 persons, 2 persons escaped from the spot on seeing the Police party and the other 2 persons namely Premnath/A1 and Abdul Rahman/A2 were caught. Later on searching the car, the



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respondent had found that the accused persons were in possession of 205 Kgs of Ganja. The respondent had arrested A1 and A2 on the spot and seized the contraband along with the vehicle. On enquiry, it was found that the persons who had escaped from the place were A3 and A4 /the petitioner herein. Based on the confession statement of A1 and A2, A4-Sevam @ Mariselvam was arrested on 01.03.2023 and A3-Sethu @ Sethuraman was arrested on 02.03.2023. Hence, the case.

4. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that A1 and A2 were arrested on 26.02.2023 and based on their confession, the petitioners have been implicated in this case and subsequently A3/the petitioner in Crl.O.P.No.12526 of 2023 was arrested on 02.03.2023 and from his possession, 3 Kgs of Ganja was recovered and A4/the petitioner in Crl.O.P.No.8750 of 2023 was arrested on 01.03.2023 and from his possession 2 Kgs of Ganja alleged to have been recovered. Other than the so called confession given by the accused persons A1 and A2,



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absolutely there is no material to fix the petitioners in this case and also to fix them as the persons who have escaped from the scene of occurrence. Even as per the prosecution, recovery is said to have been made from the petitioners are only 3 Kgs and 2 Kgs respectively, which is intermediate quantity. Investigation has been completed and the final report has also been filed before the Special Court and the case has been taken on file in C.C.No.455 of 2023. Even in the final report, absolutely there is no material to allege that the petitioners was hand in glove with the other accused persons. Hence, he seeks grant of bail to the petitioners.

5. The learned Government Advocate (Crl. Side) appearing for the respondent/Police has filed a detailed counter. He vehemently opposed to grant bail to the petitioners stating that the petitioners had travelled along with A1 and A2 in a car and when the car was intercepted by the respondent/Police, the petitioners escaped from the scene of occurrence and from the possession of A1 and A2, 205 Kgs of Ganja have been recovered. As far as the petitioners are concerned, they were later



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arrested on 01.03.2023 and 02.03.2023 and from them, 3 Kgs and 2 Kgs of Ganja was recovered. He would further submit that other than the confession statement recovered from the arrested accused, there is no material including electronic evidence to show that the petitioners have travelled with other accused persons.

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.

7. This Court taking into consideration that the petitioners have been arrested much belatedly on 01.03.2023 and 02.03.2023 respectively and the quantity of contraband alleged to have been recovered from the petitioners are 3 Kgs and 2 Kgs respectively which is an intermediate quantity and further there is no material other than the confession statement recorded from the arrested accused to connect the petitioners to this crime, this Court is of the opinion that the petitioners have satisfied the twin conditions as required under Section 37 of NDPS Act. Hence,



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this Court is inclined to grant of bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail on condition to make a non refundable deposit of **Rs.30,000/- (Rupees Thirty Thousand only)** each by way of **Demand Draft/RTGS/NEFT** to " **The Dean, Kilpauk Medical College, Chennai**" 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 a separate bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand Only)** with two sureties each for a like sum to the satisfaction of the **learned Judicial Magistrate No.I, Alandur** 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;



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[b] the petitioners shall report before the respondent police every day at 10.30 am. until further orders;

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

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[e] 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]***;

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

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To

1. The Judicial Magistrate No.I, Alandur.
- 2.The Inspector of Police,
S-7, Madipakkam Police Station,
Chennai.
3. The Superintendent, Central Jail at Puzhal.
4. The Superintendent, Puzhal Prison-II, Chennai.
5. The Public Prosecutor, High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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