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Crl.O.P.No.8786 of 20



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.8786 of 2023

Sridhar

... Petitioner

Vs.

State Represented by
The Inspector of Police
Rathinapuri Police Station,
Coimbatore District.
(Crime No.416 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.416 of 2022 pending on
the file of the respondent herein.

For Petitioner : Mr.T.Muruganantham

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 17.02.2023, for the offences punishable under Sections 272, 273, 328 of
IPC r/w 8(c), 20(b)(ii)(C) and 25 of NDPS Act, in Crime No.416 of 2022 on
the file of the respondent police, seeks bail.



2. The case of the prosecution is that on 30.04.2022 at about 08.30 hours, based on a secret information, the Sub Inspector of Police along with the police party, intercepted the vehicle bearing Regn.No.TN 66 B 9031 which was driven by A1/Balaji and found him in illegal possession of 8.800 kgs. of Ganja Chocolates. Thereafter, he confessed that the balance Ganja is kept in Housing Unit, Goundanpalayam and the respondent police went there and found Mustani Ganja Mitai-11.700 kgs. Subsequently, the Sub Inspector of Police arrested the 1st accused and recorded his confession statements and seized commercial quantity of 20.500 kgs. of Ganja Chocolates from the 1st accused under the cover of seizure mahazar. Later, based on the confession recorded from the 1st accused that he had intended to sell the Ganja Chocolates along with other 14 named persons, the 14 others persons were named and added as accused in this case and later, based on the confession the petitioner is arrayed as A16 in this case and he was arrested on 17.02.2023.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and that he has been falsely implicated in this case based on the confession recorded from the main accused from whom, the



commercial quantity of contraband is alleged to have been recovered. He further submitted that the first accused has given confession stating that he had intended to sell the Ganja Chocolates along with others to some other persons. Apart from the said confession, there is absolutely no other material to connect the petitioner in this case and that nothing was recovered from the petitioner. He would submit that the petitioner has been in judicial custody from 17.02.2023 and that his name is not found in the FIR. He further submitted that the petitioner is ready to deposit a substantial amount to any charitable institution as may be directed by this Court and hence, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (Criminal Side) for the respondent vehemently opposed to grant bail to the petitioner stating that A1 in this case was arrested for having found in possession of 20.500 kg of Ganja Chocolates. He had confessed that he had intended to sell the contraband along with others and the petitioner is one among them and he is impleaded as A16. He further submitted that one case has been registered against the petitioner for having found in possession of 2.200 kgs. of Ganja. However, nothing incriminating has been recovered from the petitioner in this case. The respondent has filed a detailed counter.



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

6. It is seen that the petitioner is arrayed as A16 based on the confession recorded from the main accused from whom commercial quantity of contraband is alleged to have been recovered. Other than the said confession, there is absolutely no other material to connect the petitioner in this case and there is no recovery from the petitioner. This Court is of the opinion that the petitioner has satisfied the twin conditions as required under Section 37 of NDPS Act. Therefore, he is entitled for bail.

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)** as non refundable deposit, by way of **RTGS/NEFT to the credit of "Charu Home for Aged, Account**



Number : 2771201000291, IFSC Code : CNRB0002771, Canara Bank,

Mahila Br., T.Nagar Chennai - 17", without prejudice to their 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 Special Court for Essential Commodities Act Cases, Coimbatore,** 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;

[d] the petitioner 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 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]***;



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

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A.D.JAGADISH CHANDIRA,J.,

ksa-2

To

1. The Special Judge,
Special Court for Essential Commodities Act Cases,
Coimbatore.
2. The Inspector of Police
Rathinapuri Police Station,
Coimbatore District.
3. The Superintendent,
Central Prison, Coimbatore.
4. The Public Prosecutor,
High Court of Madras.

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