



Crl.O.P.No.8865 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2023

CORAM

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

Crl.O.P.No.8865 of 2023

P.Suriya

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
T-15, SRMC Police Station,
Avadi, Chennai.

(Crime No.145 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner/accused on bail, in connection with the
Crime No.145 of 2023, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.J.B.Solomon Peter Kamal Doss

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 12.02.2023, for the offences punishable under Sections 8(c), 20(b)(ii)(B) of NDPS Act, 1985 in Crime No.145 of 2023, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 12.02.2023 at about 09.45 hours, Tr.John Bosco, the Sub Inspector of Police, on a secret information about the illegal transportation of Narcotic Substance, went along with his police team (i.e,) Tr.Muthukrishnan HC-12445 and Tr.Selvaraj PC-15256 to the SOC (i.e.,) near Oceian Cholorofill Apartment, Porur Service Road, and conducted a check up. At that time, the accused A1/Suriya, A2/Praveen Kumar came in two wheeler bearing registration No.TN 03 AH 0734 Dio vehicle. When they saw the police, they tried to escape and at that time the respondent police caught the accused and enquired them and they found 2.00 kg Ganja from A1, 1.050 kg Ganja from A2 in their possession. The respondent police seized 3.050 kg of Ganja under the cover of seizure



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3. The learned counsel for the petitioner would submit that the petitioner is arrayed as A1 in this case and he is an innocent person. He would submit that the petitioner is aged about 25 years and that he was arrested by the respondent police on 12.02.2023 and from his custody, the respondent is alleged to have seized 2 kgs of Ganja which is an intermediate quantity and other than that no other material has been recovered from the petitioner. He would submit that the petitioner is in custody from 12.02.2023 and he has no previous case against him. He would submit that the co-accused, who is similarly placed, has been granted bail by this Court in Crl.O.P.No.6821 of 2023 dated 12.04.2023 and hence, he prays to grant bail to the petitioner.



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4. The respondent has filed a detailed counter and the relevant portion in respect of the specific overt-act of the accused in this case is extracted here under:

S.No.	Accused	Contraband seized	Commercial/ non-commercial	NDPS Schedule No	Chemical Report
1	Suriya/A1	02.00 kg Ganja	Intermediate quantity	55	Yet to obtain the lab report
2	Praveen Kumar @ Babulu/A2	1 Kg and 50 gram Ganja	Intermediate quantity	55	Yet to obtain the lab report
3	Devaraj/A3	1)0.35 gram LSD Stamp 2)6.00 grams of White Crystal Meth 3)11 grams Opium	Commercial quantity	133, 159, 92	Yet to obtain the lab report
4.	Vinoth Kumar @ Vinoth/A4	1)0.41 grams LSD stamp 2)21.2 grams Ecstasy 3)0.89 grams MDMA powder 4)51 grams white crystal	Commercial quantity	133, 134, 159	Yet to obtain the lab report
5	Balaji/A5	1)21.03 grams Ecstasy2)23.200 kg Ganja	Commercial quantity	134, 55	Yet to obtain the lab report



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5. The learned Government Advocate (Crl.Side) would submit that on a specific information, the respondent police intercepted A1 and A2 while they were coming in a two wheeler bearing Registration No.TN 03 AH 0734 and during such time, A1/the petitioner herein was found in possession of 2 kgs of Ganja. and the A2 was found in possession of 1.050 kgs of Ganja. Later based on their confession, on the next day three other persons were arrested, from whom, commercial quantity of contraband were seized. He would submit that investigation is in the initial stage. The petitioner and the other accused are friends and they have confessed that they used to purchase the drugs from Andra Pradesh and sell it in local.

6. In reply, the learned counsel for the petitioner would submit that other than the alleged confession, there is no other material to connect the petitioner with other accused who has been arrested with commercial quantity of the contraband and he would submit that without prejudice to his defense, the petitioner is ready to make a non-refundable deposit of Rs.20,000/- for any welfare scheme.



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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.20,000/- (Rupees Twenty Thousand only) to the credit of "Charu Home for Aged", without prejudice to his rights and contentions before the trial Court.

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 of the case and the submissions made by the learned counsel and also of the fact that contraband recovered from the petitioner is intermediate quantity and considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.



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11. Accordingly, the petitioner is ordered to be released on bail on condition to make a non-refundable deposit of Rs.20,000/- (Rupees Twenty Thousand only) 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 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 this 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 Judicial Magistrate-I, Poonamallee**, 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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[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]***;

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

24.04.2023

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To

1. The No.I, Judicial Magistrate,
Poonamallee.
2. The Inspector of Police,
T-15, SRMC Police Station,
Avadi, Chennai.
3. The Central Prison-II,
Puzhal, Chennai-600 066.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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