



CrI.OP.No.9250 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.05.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.OP.No.9250 of 2023

R.Sivaraja

... Petitioner

Vs.

State Rep by
Inspector of Police,
M-4 Redhills Police Station,
Chennai.
Crime No.1402 of 2021

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to release the petitioner on bail in crime No. 1402 of 2021 pending investigation on the file of the respondent police.

For Petitioner : Mr.S.Jayaprakash

For Respondent : Mr.A.Damodaran,
Addl. Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 01.04.2023 for the offence punishable under Sections 8(c), 20(b)(ii)(C), 25 and 29(1) of NDPS Act in Crime No.1402 of 2021 on the file of the respondent police, pending trial in C.C.No.41 of 2022, on the file of II Addl. Special Court for NDPS Cases, Chennai, seeks bail.

2. The case of the prosecution is that on 23.07.2021 at about 09.30 hrs. on a secret information, when the respondent police was on vehicle check at M.A.Nagar checkpoint around 09.30 hrs., a car, which came at high speed and the driver avoided to stop the car, the respondent police intercepted the car and caught hold it and on search, they were found in possession of 120 kgs. of ganja. Hence, the present complaint was lodged against the petitioner.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would also submit that there is no recovery from this petitioner



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and the name of petitioner was also not found place in the F.I.R. He would further submit that other co-accused A3 and A5 were already granted bail. Hence, he seeks for grant of bail to the petitioner.

4. The learned Addl. Public Prosecutor would submit that the petitioner was found to be in possession of 120 kgs. of ganja in a car, which is a commercial quantity. Totally, there are seven accused in this case and the petitioner is arrayed as A2. He would submit that as per the F.I.R., his name was not found, however, after completion of investigation, the petitioner's name was implicated as A2 in the charge sheet. He would also submit that after filing final report, the trial court has taken cognizance of offence and the case was taken on file in C.C.No. 41 of 2022, on the file of II Addl. Special Court for NDPS Cases, Chennai. Hence, he vehemently opposed to grant bail to the petitioner.

5. It is seen that totally there are seven accused in this case and the petitioner is arrayed as A2 and on search, the petitioner was found in



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possession of 120 kgs. of ganja in a car and only in the charge sheet, the petitioner's name is found and he is arrayed as A2. As per the charge sheet, the petitioner has been implicated as accused on the confession statement of co-accused. On perusal of confession statement, it would reveals that the petitioner has only instigated to do ganja business and in view of the same, A6 and A7 went to Andhra Pradesh to purchase the same. Except that allegation, no other recovery was made from him and there is no other material to connect the petitioner along with other accused. Therefore, the petitioner has made out a prima facie case in order to substantiate the twin conditions as contemplated under Sec.37 of NDPS Act for granting bail. Considering the above facts and circumstances of the case and also the period of incarceration by the petitioner, this Court is inclined to grant bail to the petitioner.

6. Accordingly, 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 **IInd Addl. NDPS Court, Chennai** and on further conditions that:



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[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 learned II Addl. NDPS Court, Chennai daily 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]**.

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

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To

- 1.The II Addl. NDPS Court, Chennai.
- 2.Inspector of Police,
M4 Redhills Police Station,
Chennai.
3. Central Prison,
Puzhal, Chennai
- 4.The Public Prosecutor,
High Court of Madras,
Chennai



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G.K.ILANTHIRAIYAN, J.

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