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Crl.O.P.No.9192 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2023

CORAM

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

Crl.O.P.No.9192 of 2023

1.Vijay

2.Vinoth Kumar

... Petitioners

Vs.

State represented by
The Inspector of Police,
Guduvancherry-PEW Police Station,
Crime No.86 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail in pending investigation in Crime
No.86 of 2023 on the file of the respondent police.

For Petitioners : M/s.V.Elangovan

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

ORDER

The petitioners, who were arrested and remanded to judicial



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custody on 26.03.2023 for the offences punishable under Sections 8(c) 20(b)(II)(B) and 29(1) of NDPS Act in Crime No.86 of 2023 on the file of the respondent police, seek bail.

2. The case of the prosecution is that the petitioners were found to be in illegal possession of 2.300 kgs of Ganja. Hence, this case.

3. Learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. He further submitted that even as per the prosecution, the contraband alleged to have been recovered from the petitioners is an intermediate quantity. He would further submit that though several cases were registered against the first petitioner, the fact remains that the respondent police in order to keep him in continuous detention, the respondent Police has foisted the said cases. He also submitted that the wife of the first petitioner is pregnant and the delivery date fixed by the Doctor is on 03.05.2023 and the petitioners are in judicial custody from 26.03.2023. Hence, he prayed for grant of bail to the petitioners.



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counsel for the petitioners, the petitioners are directed to deposit a sum of Rs.15,000/- (Rupees fifteen Thousand only) jointly to the credit of **"Rehoboth - Home for Mentally Challenged Homeless Women, No.22, Viswas Nagar, Koluthuvancherri, Paraniaputhur, Chennai",** without prejudice to their rights and contentions before the trial Court.

8. Merely, because the petitioners have deposited the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

9. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and taking note of the fact that the petitioners have come forward to deposit an amount of Rs.15,000/- jointly to the credit of the **"Rehoboth - Home for Mentally Challenged Homeless Women, No.22, Viswas Nagar, Koluthuvancherri, Paraniaputhur, Chennai"** and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions.

10. Accordingly, the petitioners are ordered to be released on bail



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on condition to make a non refundable deposit of **Rs.15,000/- (Rupees fifteen Thousand only)** jointly to the credit of "**Rehoboth - Home for Mentally Challenged Homeless Women, No.22, Viswas Nagar, Koluthuvancherri, Paraniaputhur, 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.10,000/- (Rupees Ten Thousand only)** with **two sureties** each for a like sum to the satisfaction of the **learned Judicial Magistrate No.2, Chengalpattu**, 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 petitioners shall report before the respondent Police, everyday at 10.30 p.m., 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



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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.

26.04.2023

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To

1. The **Judicial Magistrate No.2, Chengalpattu**
2. The Inspector of Police,
Guduvancherry-PEW Police Station,
Crime No.86 of 2023
3. The Central Prison, Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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