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CrI.OP.No.10088 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.10088 of 2023

J.Joshva Anthony Darrius

... Petitioner

Vs.

State Rep by
Inspector of Police,
NIB -CID,
Chennai.
Crime No.19 of 2020

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in C.C.No.01 of 2021 before the Principal Special Judge, Special Court under EC & NDPS Act, Chennai.

For Petitioner : Mr.M.G.Martinmanivannan

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 18.07.2020 for the offences punishable under Sections 8(c), 20(b)(ii)(c), Section 25 & 29(1) of NDPS Act, 1985 in Crime No.19 of 2020 on the file of the respondent police, seeks bail

2. The case of the prosecution is that on 18.07.2020 at about 7.00 hours, the respondent police based on a secret information intercepted a TATA 1109 vehicle bearing registration No.TN-02BQ-4594 At Madhavaram Roundtana and seized 74 kgs of ganja from A1 to A3. Thereafter based on the confession statement given by them, the respondent police found A4 and A5 waiting in Honda Activa bearing registration No.TN 10 BK 5317 and seized 31 kgs of Ganja from them. The petitioner herein is arrayed as A2.

3. The learned counsel for the petitioner would submit that the petitioner is arrayed as A2 in this case and as per the prosecution, 74 kgs of Ganja is alleged to have been recovered from the possession of A1 to



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A3. He would submit that the petitioner is in custody from 18.07.2020.

He would submit that as per the prosecution based on the confession recorded from them, the respondent has also arrested A4 and A5 who were waiting in a Honda Activa vehicle bearing registration No.TN 10 BK 5317 and from them 31 kgs of Ganja has been recovered which is a commercial quantity. He would further submit that the co-accused A5/Tamilarasan who was also arrested with commercial quantity of Ganja. He would submit that the petitioner has no other case against him and the petitioner is entitled for bail on parity with A5 who has been similarly placed and who has been granted bail by the Honorable Supreme Court in SLP.No.1367 of 2023 dated 18.10.2022.

4. The learned Additional Public Prosecutor would submit that it is a case where the petitioner along with two other accused were arrested for having found in possession of 74 kgs of Ganja. He would submit that based on the confession recorded from the petitioner, two other persons A4 and A5 have been arrested and from them 31 kgs of Ganja was recovered. He would further submit that the co-accused in this



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case was also arrested for having found in possession of commercial quantity of Ganja and that he has been directed to be released on bail by the Honorable Supreme Court in SLP.No.1367 of 2023 dated 18.10.2022 taking into consideration the long incarceration.

5. Considering the facts and circumstances of the case and also the period of incarceration by the petitioner and also considering that co-accused in this case was granted bail, 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 (out of which, one shall be a blood related surety) each for a like sum to the satisfaction of the **learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai** 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 petitioner shall report before the trial Court on all working days at 10.30 a.m. for a period of two weeks and thereafter on the dates fixed by the learned trial Judge. It is made clear that the petitioner shall not move out of Chennai City without intimating the respondent police.

[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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G.K.ILANTHIRAIYAN, J.

Sma

To

1. Principal Special Judge,
Special Court under EC & NDPS Act, Chennai
2. Inspector of Police,
NIB -CID,
Chennai.
3. Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court of Madras

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