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Crl.O.P.No.11563 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2023

CORAM

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

Crl.O.P.No.11563 of 2023

Lakshmanan

... Petitioner

Vs.

State rep by
The Inspector of Police
NIB CID, Chennai.
(Crime No.41/2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in the above C.C.No.166 of 2023 on
the file of the Court of Principal Special Judge under EC and NDPS Act,
Chennai in Cr.No.41 of 2022 on the file of the respondent police.

For Petitioner : Mr.S.Senthilvel

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 23.08.2022, for the offences punishable under Sections 8(c) r/w 20(b)(ii)(B), 20(b)(ii)(C) and 29(1) of the NDPS Act, in Crime No.41 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that, based on a credential information, the respondent police went to the spot on 23.08.2022 wherein, they found two persons selling Ganja and subsequently, they seized 1 Kg. of Ganja Oil from A1/Sharat Janaki Ramayaa and 1 Kg. of Ganja from A2/the petitioner herein. Hence, the case.

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 based on the confession of A1 from whom 1 Kg. of Hashish Oil is stated to have been recovered. Even as per the prosecution and confession recorded from A1, only 1 Kg. of Ganja is stated to have been recovered from the petitioner. He further submitted that the main accused/A1 from whom 1 Kg. of Hashish Oil is stated to have been recovered, had moved an application for bail before this Court in CrI.O.P.No.2630 of 2023 and this Court, taking



into consideration that 1 Kg. of Hashish oil is not a commercial quantity, granted bail to A1 by order dated 21.02.2023. He also submitted that the petitioner has been in judicial custody for more than 9 months from 23.08.2022. Hence, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (Criminal Side) appearing for the respondent police vehemently opposed to grant bail to the petitioner stating that the petitioner along with other accused was found in possession of 1 Kg. of Hashish Oil and 1 Kg. of Ganja. However, he would fairly concede that the main accused/A1 from whom 1 Kg. of Hashish Oil was recovered, has been granted bail by this Court.

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

6. This Court in Crl.O.P.No.2630 of 2023 dated 21.02.2023 had taking into consideration that 1 Kg. of Hashish Oil is not a commercial quantity and thereby, granted bail to the main accused/A1. Insofar as the petitioner is concerned, it is stated that only 1 Kg. of Ganja has been



recovered from the petitioner which is only a smaller quantity. Taking into consideration the above facts and circumstances of the case, the period of incarceration undergone by the petitioner, this Court is inclined to grant of bail to the petitioner with certain conditions.

7. 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 XVI Metropolitan Magistrate, George Town, 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;

[b] the petitioner shall report before the trial Court on all working days and 10.30 a.m. until further orders;

[c] the petitioner shall not abscond during trial;

[d] the petitioner shall not tamper with evidence or witness during trial;



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[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take 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.

01.06.2023

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To

1. The XVI Metropolitan Magistrate, George Town, Chennai.
2. The Inspector of Police
NIB CID, Chennai.
3. The Central Prison, Puzhal – II,
Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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