



Crl.O.P.No.11923 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.11923 of 2023

Bharath

... Petitioner

Vs.

State rep by
Inspector of Police
Periyanaickenpalayam Police Station

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner/accused No.3 on bail in Crime No.163 of
2023 of 2023 on the file of the respondent police.

For Petitioner : Mr.S.Chetan Prakash

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 02.04.2023 for the offences punishable under Sections 8(c), 20(b)(ii)(B) and 25 of Narcotic Drugs & Psychotropic Substances Act, 1985, in Crime No.163 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner along with three other accused persons was found in illegal possession of 1.300 Kgs. of Ganja and 3.300 Kgs. of Ganja Chocolates. 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. He further submitted that even as per the prosecution, the entire contraband is stated to have been recovered only from A1 and A2 and that there is no recovery from this petitioner. Further, the co-accused from whom the alleged contraband is stated to have been recovered, have been granted bail by the lower Court in C.M.P.No.1631 of 2023 dated 24.05.2023, C.M.P.No.1678 of 2023 dated 26.05.2023 and also by this Court in Crl.O.P.No.10287 of 2023 dated 05.05.2023 and that the petitioner has been



suffering incarceration from 02.04.2023. Hence, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) vehemently opposed for grant of bail to the petitioner stating that the petitioner/A3 along with 3 other accused was found in illegal possession of 1.300 Kgs. of Ganja and 3.300 Kgs. of Ganja Chocolates. However, he would fairly concede that there is no recovery from the petitioner.

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. Considering the facts and circumstances of the case, the submissions made by the learned counsel on either side and the period of incarceration undergone by the petitioner and also of the fact that the co-accused have been granted bail by this Court as well as by the lower Court, this Court is inclined to grant of bail to the petitioner with certain conditions.



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7. Accordingly, the petitioner is directed to make a non refundable deposit of **Rs.10,000/- (Rupees Ten Thousand only)** by way of **Demand Draft/RTGS/NEFT** to **"The Dean, Government Medical College and Hospital, Coimbatore"** 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 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 Additional District Judge, Special Court for Essential Commodities Act Cases, Coimbatore** 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. for a period of six weeks and thereafter, as and when required for interrogation.

[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 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 Additional District Judge, Special Court
for Essential Commodities Act Cases, Coimbatore
2. Inspector of Police
Periyanaickenpalayam Police Station
Coimbatore
3. The Coimbatore Central Prison
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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