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Crl.O.P.Nos.12002 & 12003 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2023

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

Crl.O.P.Nos.12002 & 12003 of 2023

1. Karpur Gowtham	... Petitioner in Crl.O.P.No.12002 of 2023
2.Sikkol Shanthose	... Petitioner in Crl.O.P.No.12003 of 2023

Vs.

State represented by
The Inspector of Police,
Rathinapuri Police Station,
Coimbatore City,
Coimbatore District.
(Crime No.416 of 2022)

... Respondent in both Crl.O.Ps.

COMMON PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C., pleased to enlarge the petitioner on bail in Crime No.416 of 2022, on the file of the respondent police.

For Petitioners : Mr.W.Camyles Gandhi
(in both Crl.O.Ps)

For Respondent : Mr. C.E.Pratap
(in both Crl.O.Ps) Government Advocate (Crl. Side)



COMMON ORDER

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The petitioners, who were arrested and remanded to judicial custody on 17.02.2023 for the offences punishable under Sections 272, 273, 328 of IPC and under Section 8(c)r/w 20(b)(ii)(c), 25 of NDPS Act, in Crime No.416 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 30.04.2022 at about 08.30 hours, based on a secret information, the Sub Inspector of Police along with the police party, intercepted the vehicle bearing Regn.No.TN 66 B 9031 which was driven by A1/Balaji and found him in illegal possession of 8.800 kgs. of Ganja Chocolates. Thereafter, he confessed that the balance Ganja is kept in Housing Unit, Goundanpalayam and the respondent police went there and found Mustani Ganja Mitai-11.700 kgs. Subsequently, the Sub Inspector of Police arrested the 1st accused and recorded his confession statements and seized commercial quantity of 20.500 kgs. of Ganja Chocolates from the 1st accused under the cover of seizure mahazar. Later, based on the confession recorded from the 1st accused that he had intended to sell the Ganja Chocolates along with other 14 named persons, the 14 others persons were named and added as accused in this case and later, based on the confession,



the petitioners were arrayed as A17 and A9 in this case and they were arrested on 17.02.2023.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution and that they have been falsely implicated in this case based on the confession recorded from the main accused from whom, the commercial quantity of contraband is alleged to have been recovered. He further submitted that the first accused has given confession stating that he had intended to sell the Ganja Chocolates along with others to some other persons. Apart from the said confession, there is absolutely no other material to connect the petitioners in this case and that nothing was recovered from the petitioners. He would submit that the petitioners have been in judicial custody from 17.02.2023 and that their names are not found in the FIR. He further submitted that the petitioners are ready to deposit a substantial amount to any charitable institution as may be directed by this Court. He further submitted that some of the co-accused including the main accused/A1, have been granted bail by this Court in Crl.O.P.No.628 of 2023 dated 25.01.2023, Crl.O.P.No.2968 of 2023 dated 15.02.2023 and Crl.O.P.No.8786 of 2023 dated 27.04.2023 and hence, he prayed for grant of bail to the petitioners.



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4. The learned Government Advocate (Criminal Side) for the respondent vehemently opposed to grant bail to the petitioners stating that A1 in this case was arrested for having found in possession of 20.500 kg of Ganja Chocolates. He had confessed that he had intended to sell the contraband along with others and the petitioners are one among them and they have been arrayed as A17 and A9. However, nothing incriminating has been recovered from the petitioners in this case.

5. The respondent has filed a detailed counter.

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

7. It is seen that the petitioners are arrayed as A17 and A9 respectively based on the confession recorded from the main accused from whom commercial quantity of contraband is alleged to have been recovered. Other than the said confession, there is absolutely no other material to connect these petitioners in this case and there is no recovery from the



petitioners. This Court is of the opinion that the petitioners have satisfied the twin conditions as required under Section 37 of NDPS Act. Therefore, the petitioners are entitled for bail.

8. Considering the facts and circumstances of the case and the submissions made by the learned counsel on either side and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant of bail to the petitioner with certain conditions.

9. Accordingly, the petitioners are directed to deposit a sum of **Rs.20,000/- (Rupees Twenty Thousand Only)** each, as non refundable deposit, by way of RTGS/NEFT to the credit of "M/s.The Tamil Nadu Juvenile Justice Fund, Account Number : 358001000000671, IFSC Code : IOBA0001288, MICR:600020073, Indian Overseas Bank, SME Kilpauk Branch, 20, Ormes Road, Kilplauk, Chennai-600 010", 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 Additional District Judge/Presiding Officer,**



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 petitioners shall report before the respondent police everyday at 10.30 a.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 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.

05.06.2023

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CrI.O.P.Nos.12002 & 12003 of 2023

To

1. The Additional District Judge/Presiding Officer,
Special Court for Essential Commodities Act Cases, Coimbatore.
2. The Inspector of Police,
Rathinapuri Police Station,
Coimbatore City,
Coimbatore District.
3. The Central Prison, Coimbatore.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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