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Crl.O.P.No.12462 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2023

CORAM

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

Crl.O.P.No.12462 of 2023

Ramalingam

... Petitioner

Vs.

State represented by,
The Inspector of Police,
NIB-CID, Salem Police Station,
Salem District.

(Crime No.36 of 2021).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Spl.C.C.No.58 of 2022, on the file
of the Special Judge for EC/NDPS Act Cases, Salem.

For Petitioner : Mr.W.Camyles Gandhi
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 19.08.2021, for the offences punishable under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act, in connection with Crime No.36 of 2021, 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 were found to be in possession of 4 kgs of dry ganja. Hence, the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he was implicated in this case based on the confession recorded from the arrested accused A3 and A4 from whom, the contraband were recovered. He further submitted that since the petitioner has got few previous cases pending against him, the petitioner was implicated in this case. He further submitted that the petitioner was arrested on 19.08.2021 and he is in custody for more than two years. He would further submit that the contraband alleged to be involved in this case is only



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4 kgs of ganja which is an intermediate quantity. Hence, he prayed for grant of bail to the petitioner.

4. The respondent has filed the detailed counter.

5. Learned Government Advocate (Crl.Side) appearing for the respondent police opposed for granting bail to the petitioner stating that the petitioner is a habitual offender, involved under NDPS Cases, against whom, 17 previous cases are pending, out of which, in few cases he has been acquitted and some of the cases are pending trial. He further submit that the petitioner is a history sheeter in H.S.No.15 of 2016. He further submitted that as far as this case is concerned, the petitioner along with three other accused persons was found to be in illegal possession of 4 kgs of dry Ganja. He also submitted that investigation in this case has been completed and the case has also been committed in Spl C.C.No.58 of 2022 on the file of the learned Special Judge for EC/NDPS Act Cases, Salem.

6. At this juncture, the learned counsel for the petitioner submitted that the petitioner is in custody for more than two years and without



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prejudice to his defence and contention, is ready and willing to deposit an amount of Rs.25,000/- to any welfare scheme. He further stated that the petitioner is also ready to abide by any other stringent conditions that may be imposed by this Court. Hence, he prays for grant of bail to the petitioner.

7. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record.

8. On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of "Rehoboth - Home for mentally challenged homeless women", without prejudice to his rights and contentions before the trial Court.

9. Merely, because the petitioner has deposited the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.



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10. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and also taking note of the fact that the petitioner is suffering incarceration for two years and that the petitioner has come forward to deposit an amount of Rs.20,000/- to the credit of **"Rehoboth - Home for mentally challenged homeless women, No.22, Viswas Nagar, Koluthuvancherri, Paraniaputhur, Chennai"**, this Court is inclined to grant bail to the petitioner with certain conditions.

11. Accordingly, the petitioner is ordered to be released on bail on condition to make a non-refundable deposit of Rs.25,000/- (Rupees Twenty Five Thousand only) by way of **RTGS/NEFT to the credit of "Rehoboth-Home for mentally challenged homeless women, No.22, Viswas Nagar, Koluthuvancherri, Paraniaputhur, Chennai, vide Account Rehoboth - Punjab National Bank, Moulivakkam Branch, A/c. No.05812010015060, IFSC Code : PUNB0058110, MICR Code : 600024081"**, 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.25,000/- (Rupees Twenty five thousand**



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only) with two sureties, for a like sum to the satisfaction of the learned Special Judge for EC/NDPS Act Cases, Salem, 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] (i) the petitioner shall appear before the learned Special Judge for EC/NDPS Act, Salem, on all working days at 10.30 a.m., for a period of three weeks and thereafter on the date fixed by the learned Trial Judge;

(ii) The petitioner shall also appear before the respondent police on every Saturday at 7.30 p.m, until further orders;

(iii) the petitioner shall after coming out on bail file an affidavit of undertaking that he will not indulge in offences of similar nature.

[c] the petitioner shall not abscond during trial;

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



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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];***

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

06.06.2023

drl

To

1. The Special Judge for EC/NDPS Act Cases,
Salem.
2. The Inspector of Police,
NIB-CID, Salem Police Station,
Salem District.
3. The Central Prison,
Salem.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

drl

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