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Crl.O.P.No.12527 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.06.2023

CORAM:

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

Crl.O.P.No.12527 of 2023

Aashik Ali @ Aashik

... Petitioner

/versus/

State Rep by
The Inspector of Police,
Saravanampatti Police Station,
Coimbatore.
(Crime No.206 of 2023)

.. Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, praying to release the petitioner on bail arrested for the alleged offences in Crime No.206 of 2023 on the file of the respondent.

For petitioner : Mr.Radha Pandian

For Respondent : Mr.C.E.Pratap,
Government Advocate (Crl.Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 12.05.2023, in connection with Crime No.206 of 2023



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registered for the offences under Sections 8(c), r/w 20(b)(ii)(A), 22(c), 29(1) of NDPS Act on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that on 29.04.2023, the respondent police received secret information that a person is having contrabands and based on such information, the respondent police along with police team went to the place of occurrence ie., Chinnavadampatty, Athipalayam Road near burial ground and secured the accused namely Suji Mohan/A1, Aswin/A2, Amaranth/A3, Prasanth/A4, Rajesh/A5, Pulli Pravin @ Pravinraj/A6, Vadavalli Pradeep @ Pradeep/A7 and arrested them on the spot itself and also recorded their confession and seized 53 gms of Methamphetamine from A1 and 500 gms of ganja from A2 under the cover of seizure Mahazar. During the course of investigation, the respondent has produced A1 to A4 before the learned Judicial Magistrate-II, Coimbatore and remanded them to judicial custody. Subsequently on 08.05.2023, the respondent had taken police custody of A1 and A2 for five (5) days and during the custody, A1 and A2 confessed that one police official namely Sridhar/A9, Grade-I Constable had given the ideas that how they should transport contrabands without



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getting caught through Whats App Call and the same was recorded in two pendrives of A1 and A8 and further confessed that Aashik Ali /petitioner herein is an Advocate and that when he was a Law Student and he has also associated with the accused and helped them to sell ganja and as told by A1 that A1 had introduced A8 and joined him as Junior in the Office of Advocate one Mr.Shanmugasundaram and that all the money transactions of A1 and A2 with other associates were carried on through A8 by way of sending through G. Pay. Thereafter, based on the confession A8/petitioner herein was arrested on 12.05.2023. Hence, the case.

3.Learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner is a practising Advocate aged about 25 years and he had completed his course in the year 2020 and thereafter got enrolled on 30.08.2022 and prior to enrollment, the petitioner was attending the office of Advocate Mr.Shanmuga Sundaram as an Intern and after enrollment he along with his Senior Counsel had appeared in 46 NDPS Cases for various accused



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in and around Coimbatore City and thereby, the respondent police were antagonized with him and earlier they had implicated the petitioner in a false case and subsequently based on alleged confession of A1 and A2 while they were in police custody the respondent has falsely implicated the petitioner in this case. He would further submit that the petitioner other than receiving fees from the accused through G-Pay Accounts has no nexus with the criminal activity and he has been falsely implicated in this case and he is under custody from 12.05.2023 for the past more than 44 days. He would further submit that other than the confession and the alleged money transactions stated to have done long back on 22.06.2022, 19.09.2022 and 28.09.2022 there is absolutely no other money transaction between the petitioner and the other accused and for having conducted the case for the accused, the petitioner was made as an accused and thereby he would seek bail to the petitioner/accused.

4. The respondent police has filed a detailed counter. As per the counter, the relevant overt act in respect of the accused and the recovery is extracted here under:



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S.No.	Accused	Contraband Seized	Commercial/ Non- Commercial	NDPS Scheduled No.	Chemical Report
1	A-1/Suji Mohan	53 gms of Methamphetamine and also seized 2 Nos. of Cell Phones and one 8 GB Pendrive.	Commercial	159	Lab Report received and detected Methampheta mine and Ganja Regional FSL Report refer: Report T.No.5016 NAR No.865 of 2023 dated 01.06.2023
2	A-2/Aswin @ Aswin Kumar	500 gms of Ganja and also seized and also seized 6 Nos of Cell Phones and one Airtel Simcard	Small Qunatity	55	Lab Report received and detected Cannabinoids Lab Report Vide Bo.No.280 of 2023 dated 26.05.2023
3	A-8/ Aashik Ali	No recovery			
4	A9/Sridhar	No recovery			

5. Learned Government Advocate would submit that the petitioner though claims to be an Advocate is an associate of the main accused in their illegal acts and he has done all the money transaction on



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behalf of the other accused. Though initially the petitioner had appeared as an Advocate, later, he has joined with the accused and he had been along with them on several occasions. He would further submit there are series of money transactions particularly on 22.06.2022, 19.09.2022 and 28.09.2022. The said money was transferred by one Jebastian through his G-pay account. He would further submit that though there is no seizure from the petitioner, there are ample materials to show that the petitioner is connected with the other accused. He would further submit that the petitioner has got one previous case registered in Crime No.151 of 2023 for offences under the NDPS Act and he would vehemently oppose for grant of bail.

6. In reply, the learned counsel for the petitioner would submit that the alleged occurrence stated to have happened on 29.04.2023 where the contraband is stated to be recovered from A1. The transaction which are pertaining to the period between 22.06.2022 and 28.09.2022 and that on three occasions, the amount of Rs.5,000/- has been transferred as fees for the petitioner relate to stale incidents and other than three transactions, there is absolutely no financial transaction between the



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petitioner and the other accused. He would further submit that the petitioner's Senior one Shanmuga Sundaram who was 45 years of standing in the Bar. The petitioner's Senior also given a certificate that the petitioner's conduct is very good. He would further submit that there is no material to connect the accused. He would further submit that it is a case where there is no recovery from the petitioner and the alleged amount transferred also related to seven months prior to the date of occurrence which have no bearing in respect of the offence stated to have been commenced on 29.04.2023. He would further submit that in respect of the previous case in Cr.No.151 of 2023 registered by the very same respondent, there is no recovery from the petitioner and he has been implicated only based on the confession in the previous case. The respondent alleged that the recovery of 300 grams of ganja from A1 and even in that case, the petitioner was implicated only based on the confession recorded from other accused. Since he was granted anticipatory bail in the earlier case, the respondent police has been waiting for right opportunity to fix him in the present case. Thereby, he would seek bail to the petitioner.



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

8 Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side, this Court finds that the petitioner is implicated based on confession and there is no recovery from him. The petitioner is an Advocate who has appeared in several NDPS Cases along with his Senior. Though it is stated that the petitioner was dealing with the finances of the other accused, other than the money alleged to have been transacted through G-Pay on 22.06.2022, 19.09.2022 and 28.09.2022, there is no other material. The date of occurrence is on 29.04.2023. Further, the petitioner in the previous case has also been implicated based on the confession and he has been granted anticipatory bail. This Court is of the opinion that the petitioner has satisfied the conditions under Section 37 of NDPS Act for grant bail of bail, thereby, this Court is inclined to grant bail to the petitioner with certain conditions.



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9. 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 should be a blood related surety) 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 petitioner shall report before the learned Spl.Court for NDPS Cases, Coimbatore at 10.30 a.m., on all working days until further orders;**

[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



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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 abscond, a fresh FIR can be registered under Section 229A IPC.

26.06.2023

Vv

To

1. The Additional District Judge/Presiding Officer,
Special Court for Essential Commodities Act Cases,
Coimbatore
2. The Inspector of Police,
Saravanampatti Police Station,
Coimbatore.
3. The Sub Jail,
Gopichettypalayam.
4. The Public Prosecutor,
High Court, Madras.



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A.D.JAGADISH CHANDIRA,J.

Vv

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