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Crl.O.P.No.12805 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2023

CORAM

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

Crl.O.P.No.12805 of 2023

Prasath

... Petitioner

Vs.

State rep by
The Sub Inspector of Police
NIB CID, Vellore.

Crime No.09 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.09 of 2023 on the file of
the respondent police.

For Petitioner : Mr.S.V.Karthikeyan

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 17.03.2023 for the offences punishable under Sections 8(c) r/w
20(b)(ii)(B) of NDPS Act, in Crime No.09 of 2023 on the file of the
respondent police, seeks bail.

2. The case of the prosecution is that on 17.03.2023, the petitioner



along with another accused was found in possession of 11.5 kgs of Ganja.

Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner, who is the resident of Kerala, is an innocent person and he has been falsely implicated in this case, due to language problem. He would further submit that the petitioner has been suffering incarceration from 17.03.2023. He would also submit that the co-accused in this case has already been granted bail by this Court in Crl.O.P.No.10089 of 2023 on 04.05.2023. Hence, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent vehemently opposed for grant of bail to the petitioner stating that the petitioner was found in possession of 11.5 kgs of Ganja and that the petitioner is a native of Kerala. However, he would submit that there is no previous case against the petitioner.

5. At this juncture, the learned counsel for the petitioner would submit that since the parents of the petitioner are no more and the petitioner has no brother or sister, the relative of the petitioner may stand as surety to



him. However, without prejudice to his defence, the petitioner is ready and willing to deposit a substantial amount to any welfare scheme run by the Government as may be directed by this Court. Hence, he prayed for grant of bail to the petitioner.

6. 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.

7. On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.20,000/- (Rupees Twenty Thousand Only) to the credit of "**Police Boys Club (T-15 Kannagi Nagar Police Boys and Girls Club)**," without prejudice to his rights and contentions before the trial Court.

8. Merely, because the petitioner has deposits 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.

9. Considering the above 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, this Court is inclined to grant of bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is directed to make a non refundable deposit of Rs.20,000/- (Rupees Twenty Thousand Only) by way of **RTGS/NEFT to the credit of "Police Boys Club (T-15 Kannagi Nagar Police Boys and Girls Club), Bank:State Bank of India, A/c. No.32033586872 IFSC Code:SBIB0011932, Branch:Okkiyam Thuraippakkam, Chennai-97, Mobile No.8056156311"** 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, out of which, one surety shall be a relative of the petitioner**, each for a like sum to the satisfaction of the **learned Special Judge for trial of 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] the petitioner shall report before the respondent police everyday at 10.30 a.m., until further



Crl.O.P.No.12805 of 2023

orders.

[c] At the time of furnishing sureties, the blood related surety shall convince the learned Magistrate with regard to his/her permanent residence;

[d] the petitioner shall not abscond either during investigation or trial;

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[f] 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]*;

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

14.06.2023

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A.D.JAGADISH CHANDIRA,J.,



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Crl.O.P.No.12805 of 2023

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To

1. The Special Court for trial of NDPS Act cases,
Salem.
2. The Sub Inspector of Police
NIB CID, Vellore.
3. The Central Prison, Salem.
4. The Public Prosecutor,
High Court of Madras.

Crl.O.P.No.12805 of 2023

14.06.2023