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Crl.O.P.No.13482 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2023

CORAM

THE HON'BLE MR. JUSTICE **G.CHANDRASEKHARAN**

Crl.O.P.No.13482 of 2023

Andi

...Petitioner

Vs.

Union of India Through
Intelligence Officer,
NCB, Chennai.

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. to enlarge the petitioner on bail in C.C.No.96 of 2020 pending trial on the file of the Special Court under EC & NDPS Act, Chennai – 104.

For Petitioner : M/s.M.Roselet Helen

For Respondent : Mr.S.Rajendra Kumar
Special Public Prosecutor
NCB Cases.

ORDER

The petitioner, who was arrested and remanded to judicial custody on 26.02.2020 for the offences punishable under Section 8 (c) r/w 20 (b) (ii) (c) , 28 and 29 of NDPS Act, in C.C.No.96 of 2020 in NCB



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No.48/1/05/2020 NCB/MDS on the file of the respondent, seeks bail.

2.The learned counsel for the petitioner submitted that petitioner is falsely implicated as accused in C.C.No.96 of 2020 for the offences under Section 8 (c) r/w 20 (b) (ii) (c) , 28 and 29 of NDPS Act. Petitioner was only a driver of the Ashok Leyland truck bearing No.TN-74-AB-6786. He did not aware that Ganja was being transported in the Ashok Leyland truck. She submitted that the co-accused namely first accused/Maruthupandi was granted bail by the Honb'le Supreme Court in Spl.Crl.No.12182 of 2022 on 10.04.2023, taking into consideration of his incarceration in jail for a period of three years. She further submitted that petitioner is similarly placed rather better placed than the first accused. He is also in judicial custody from 26.02.2020. Thus, she seeks bail.

3.In response, the learned Special Public Prosecutor (NCB cases) opposed this petition on the ground that petitioner cannot claim lack of knowledge about illegal procurement and transportation of 308 kg of Ganja. That apart, petitioner has no permanent address. An enquiry was conducted as to whether the address given by the petitioner is his



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permanent address and it was found that house was kept under lock and key for more than a year. Therefore, he opposed this petition.

4.Considered the rival submissions and perused the records.

5.It is not in dispute, that first accused was granted bail by the Honb'le Supreme Court in Spl.Crl.No.12182 of 2022 on 10.04.2023. The reason for granting bail is that he is in judicial custody for more than three years and it would take sometime for the completion of the trial. This bail order was passed on 10.04.2023. Till the trial is not completed and the case is pending for examination of LW6. Without going into the merits of the case and on considering that co-accused was granted bail by the Honb'le Supreme Court in Spl.Crl.No.12182 of 2022, this Court is also of the view that petitioner may also released on bail. In such circumstances, this Court is inclined to grant bail to the petitioner with conditions.

6.Accordingly, petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/-** (Rupees Twenty Five



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thousand only) with **two respectable sureties** , each for a like sum to the satisfaction of the **learned Principal Special Judge EC & NDPS Trial of Cases under NDPS Act, Chennai**, 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 stay at Chennai and report before the respondent daily at 10.00 a.m., except on the date of hearings, 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 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



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

7.Petitioner is directed to co-operate with the trial Court for the early completion of trial.

8.The learned Principal Special Judge EC & NDPS Trial of Cases under NDPS Act, Chennai, is directed to complete the trial and dispose the case as expeditiously as possible, preferably, within a period of three months from the date of receipt of copy of this order.

05.09.2023

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To

- 1.The Principal Special Judge EC & NDPS
Trial of Cases under NDPS Act, Chennai,
- 2.Central Prison,
Puzhal -1, Chennai
- 3.Union of India Through
Intelligence Officer,
NCB, Chennai.
- 4.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN. J.

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