



Crl.O.P.No.12939 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

CORAM

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

Crl.O.P.No.12939 of 2023

R.Duraiarasan

... Petitioner

Vs.

The State Represented by
The Inspector of Police
R-2, Kodambakkam Police Station
(Crime No.46 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.46 of 2023 on the file of
the respondent police.

For Petitioner : M/s.S.Naveenha Devi

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



ORDER

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The petitioner, who was arrested and remanded to judicial custody on **07.03.2023** for the offences punishable under Sections 8(c) read with 20(b)(ii)(b), 25, 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.46 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 07.03.2023, the petitioner along with two other accused was found in illegal possession of 3.800 Kgs. of Ganja. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would further submit that the petitioner has been languishing in jail for more than 90 days from 07.03.2023 and even as per the prosecution, the contraband alleged to have been recovered is a intermediate quantity and therefore, the petitioner is entitled for statutory bail under Section 167 (2) Cr.P.C. However, on instructions he would submit that the petitioner without prejudice to his defence, is ready and willing to deposit a substantial amount to any welfare scheme run by the Government as may be directed by this Court and he prayed for grant of bail to the petitioner.



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4. The learned Government Advocate (Crl. Side) appearing for the respondent vehemently opposed for grant of bail to the petitioner stating that the petitioner along with two other accused was found in illegal possession of 3.800 Kgs. of Ganja. He further submitted that the petitioner has got 2 previous cases out of which, one case is for the offence under NDPS Act.

5. The respondent has filed a detailed counter.

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

7. 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.

8. Accordingly, the petitioner is directed to make a non-refundable deposit of **Rs.10,000/- (Rupees Ten Thousand only)** 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 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**, each for a like sum to the satisfaction of the **learned XVII Metropolitan Magistrate, Saidapet, 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 report before the respondent police everyday at 10.30 a.m. 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;



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[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 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.

12.06.2023

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To

1. The XVII Metropolitan Magistrate, Saidapet, Chennai
2. The Inspector of Police
R-2, Kodambakkam Police Station, Chennai
3. The Central Prison, Puzhal
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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