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Crl.O.P.No.12773 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2023

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

Crl.O.P.No.12773 of 2023

Kabir Hussain

... Petitioner

Vs.

State rep by
The Inspector of Police
S-4 Nandambakkam Police Station,
Nandambakkam, Chennai.

Crime No.41 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.41 of 2023 on the file of
the respondent police.

For Petitioner : Mr.M.Murugan

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 10.04.2023 for the offences punishable under Sections 8(c) r/w



20(b)(ii)(B) of NDPS Act, in Crime No.41 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 10.04.2023, the petitioner along with another accused was found in possession of 5 kgs of Ganja. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner, who is a resident of Tripura, is an innocent person and he came to Tamil Nadu for searching a job and due to language problem, he has been unnecessarily roped in this case. He would further submit that even as per the prosecution, the contraband alleged to have been recovered from the petitioner is an intermediate quantity. He would further submit that the petitioner has been suffering incarceration from 10.04.2023. 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 along with another accused was found in possession of 5 kgs of Ganja and that the petitioner is a native of Tripura. He would further submit



that the investigation has been completed and the final report has been filed and the case has been taken up for trial in C.C.No.430 of 2023 on the file of the learned Principal Special Court under EC and NDPS Act cases, Chennai and there are totally 9 witnesses in this case and the respondent would be able to complete the trial as expeditiously as possible. Hence, he prayed for dismissal of the petition.

5.At this juncture, the learned counsel for the petitioner would submit that the blood relative of the petitioner are ready to stand as surety to the petitioner and he is ready to furnish proof of his permanent residence. 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.15,000/- (Rupees Fifteen 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.15,000/- (Rupees Fifteen 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 blood relative of the petitioner**, each for a like sum to the satisfaction of the **learned Judicial Magistrate No.I, Alandur**, 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 trial Court on all working days at 10.30 a.m., until further 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



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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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To

1. The Judicial Magistrate Court-I, Alandur.
2. The Inspector of Police
S-4 Nandambakkam Police Station,
Nandambakkam, Chennai.
3. The Central Prison, Puzhal.
4. The Public Prosecutor,
High Court of Madras.

A.D.JAGADISH CHANDIRA,J.,



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