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Crl.O.P.No.12970 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2023

CORAM

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

Crl.O.P.No.12970 of 2023

Muthupandi

... Petitioner

Vs.

State rep by
The Inspector of Police
M-5, Ennore Police Station
Chennai
Crime No.249 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.249 of 2023 on the file
of the respondent police.

For Petitioner : Mr.R.Kamesh

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 **04.05.2023** for the offences punishable under Sections 8(c), 20(b)(II)(B) of NDPS Act, 1985 in Crime No.249 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner along with other accused was found in possession of 1.250 Kgs. of Ganja. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case since the petitioner has got 4 previous cases against him registered by the very same respondent police. He further submitted that the petitioner has been suffering incarceration for more than one month from 04.05.2023. 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.



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 other accused was found in possession of 1.250 Kgs. of Ganja. He further submitted that the petitioner is a history sheeter and he has got 4 previous cases for the offence under Indian Penal Code. The respondent police has filed a detailed counter.

5. 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 and counter.

6. On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand Only) by way of **RTGS/NEFT to the credit of "The Deputy Commissioner of Police, H-5, New Washermenpet, Chennai-600 021 (Drug Awareness Scheme, Youngster Cricket Match)"** without prejudice to her rights and contentions before the trial Court.



7. 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.

8. 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.

9. 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 "The Deputy Commissioner of Police, H-5, New Washermenpet, Chennai-600 021 (Drug Awareness Scheme, Youngster Cricket Match)"** 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 Judicial Magistrate, Thiruvottiur**, and on further conditions that:



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[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;

[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 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]*;

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

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To

1. The Judicial Magistrate, Thiruvottiyur
2. The Inspector of Police
M-5, Ennore Police Station
Chennai
3. The Central Prison, Puzhal-II.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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