



CrI.O.P.No.13126 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2023

CORAM

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

CrI.O.P.No.13126 of 2023

1. Surya

2. Arun @ Karupandi

... Petitioners

Vs.

State by,

Inspector of Police,

D6, Anna Square Police Station,

Chennai.

(Crime No.96 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioners on bail, in connection with the Crime
No.96 of 2023 on the file of the respondent Police.

For Petitioners : Mr.Ilayaraja Kandasamy

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

ORDER

The petitioners, who were arrested and remanded to judicial
custody on 02.05.2023, for the offences punishable under Sections 8(c),



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20(b)(ii)(B) and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985 in Crime No.96 of 2023, on the file of the respondent police, seek bail.

2. The case of the prosecution is that the petitioners who were coming in a two wheeler were intercepted by the respondent police, from A1 1.300 kgs of ganja were recovered. Hence, the case.

3. Learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. He also submitted that the petitioners are no way connected with the alleged offence and they are in custody from 02.05.2023, hence, he prayed for grant of bail to the petitioners.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioners were intercepted while they were coming in a two wheeler and from the first petitioner 1.300 kgs of ganja were recovered. He would further submit that as far as the first petitioner is concerned, he has got 11 previous cases, out of which, 3 cases are similar in nature and as far as the second petitioner is concerned, he has got 2 previous



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cases of similar nature and thereby, he would oppose for grant of bail to the petitioners.

5. At this juncture, the learned counsel for the petitioner submitted that the petition in respect of first petitioner is not pressed and he would only seek bail in respect of second petitioner from whom, there is no recovery. He would further submitted that without prejudice to his defence and contention, the second petitioner is ready and willing to deposit an amount of Rs.10,000/- to any welfare scheme run by the Government. He further stated that the second petitioner is also ready to abide by any other stringent conditions that may be imposed by this Court. Hence, he prays for grant of bail to the second petitioner.

6. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record.

7. Taking into consideration the first petitioner has got three previous cases of similar nature and that the contraband was also recovered



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from him, this Court is not inclined to grant bail to the first petitioner. On considering the voluntary submission made by the learned counsel for the petitioner that the second petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of "The Dean/Medical Officer, Government Stanley Medical College Hospital" Chennai, without prejudice to his rights and contentions before the trial Court. Since there is no recovery from the second petitioner, this court is inclined to grant bail to the second petitioner.

8. Merely, because the second petitioner has deposited 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. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and also taking note of the fact that the second petitioner has come forward to deposit an amount of Rs.10,000/- to the credit of "**The Dean/Medical Officer, Government Stanley Medical College Hospital, Chennai**", this Court is inclined to grant bail to the petitioner with certain conditions.



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10. Accordingly, the second petitioner is ordered to be released on bail on condition to make a non-refundable deposit of Rs.10,000/- (Rupees Ten Thousand only) directly to the credit of **"The Dean/Medical Officer, Government Stanley Medical College Hospital, Chennai"**, without prejudice to his rights and contentions before the trial Court, on such deposit and production of proof, the second 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 Metropolitan Magistrate Court -II, Egmore, 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 second petitioner shall report before the respondent Police, everyday at 10.30 a.m., until further orders;

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



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[d] the second 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 second petitioner in accordance with law as if the conditions have been imposed and the second 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.

11. With the above directions, this Criminal Original Petition in respect of the first petitioner stands dismissed. The Criminal Original Petition in respect of the second petitioner stands ordered.

21.06.2023

Vv

To



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1. The Metropolitan Magistrate Court -II,
Egmore, Chennai
2. The Inspector of Police,
D6, Anna Square Police Station,
Chennai.
3. The Central Prison-II,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

Vv

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