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Crl.OP.No.13115 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2023

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THE HON'BLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.OP.No.13115 of 2023

Thangadurai

...Petitioner

Vs.

The State Rep by
The Inspector of Police,
Vellore PEW Police Station,
Vellore District.
(Crime No.208 of 2023)

...Respondent.

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to enlarge the petitioner on bail in connection with the case in
Crime No.208 of 2023 on the file of the respondent Police.

For Petitioner : Mr.S.V.Karthikeyan

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 11.03.2023 for the offence punishable under Sections 8 (c) r/w 20 (b)



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(ii) (C) of NDPS Act, in Crime No.208 of 2023 on the file of the respondent police, seeks bail.

2.It is the submission of the learned counsel for the petitioner that petitioner is falsely implicated as A5 in Crime No.208 of 2023 for the offences under Sections 8 (c) r/w 20 (b) (ii) (C) of NDPS Act. Petitioner is implicated on the basis of confessional statement of co-accused. There is no recovery of any contraband from him. He is in judicial custody from 11.03.2023. Hence, he seeks bail.

3.In response, the learned Additional Public Prosecutor submitted that on 09.03.2023, on secret information received, defacto-complainant and other Police part mounted surveillance, at Christianpettai check post. They found a lorry bearing No.TN 52 AB 6392, as informed by secret informant. A1 and A2 were found in the lorry. On informing about secret information, they admitted possessing Ganja. After following necessary procedure, defacto-complainant and Police party recovered 13 Kgs of Ganja from first accused and 10Kgs of Ganja from second accused. On the basis of confessional statement of A1 and A2, A3 and A4 are



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implicated as a persons who are the proposed receivers of the Ganja. As per the confessional statement of A4, petitioner is also one of the accused who intended to receive Ganja from A1 and A2. Ganja, lorry bearing No.TN 52 AB 6392 and Maruti Alto car bearing No.TN 92 A 3152 were seized.

4.Considered the rival submissions and perused the records.

5.From the narration of the allegation made in the First Information Report, it is clear that the name of the petitioner is not shown in the First Information Report. He is implicated in this case on the basis of confessional statement of A4 as one of the proposed purchasers of Ganja, which was illegally transported by A1 and A2. Admittedly, there was no recovery of any contraband from the petitioner. Except the confessional statement of co-accused under the custody of Police, there is no other incriminating material available against the petitioner, as of now.



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6. In such circumstances, this Court is inclined to grant bail to the petitioner for the reason that there is no legal evidence available against the petitioner to believe that he is involved in the offence alleged in the First Information Report. It appears that there is no previous case pending against him. Twin conditions contemplated under Section 37 of NDPS Act, in the facts and circumstances of the case are satisfied.

7. Accordingly, 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 **Special Court for trial of NDPS Act Cases, Salem**, 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 at 10.00.a.m., until further orders.

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



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[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 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.

18.08.2023

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To

- 1.The Special Court for trial of NDPS Act Cases,
Salem
- 2.The Inspector of Police,
Vellore PEW Police Station,
Vellore District.
- 3.Central Prison, Salem



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4. The Public Prosecutor,
High Court of Madras

G.CHANDRASEKHARAN. J.

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