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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2023

CORAM:

THE HON'BLE **Dr. JUSTICE G.JAYACHANDRAN**

Crl.O.P.No.13353 of 2023

Badal Behra

.. Petitioner

Vs.

State rep. by
The Inspector of Police,
NIB-CID Salem Police Station,
Salem District.
(Cr.No.18 of 2023)

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to order enlarge the petitioner on bail in Cr.No.18 of 2023 on the file of the respondent.

For Petitioner : Mr.C.Deepak Kumar

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



ORDER

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The petitioner, who was arrested on 27.04.2023 for the offences punishable under Sections 8(c) read with 20(b)(ii)(B) of NDPS Act 1985 in Crime No.18 of 2023, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 27.04.2023, while he was traveling in a train bearing No.13351, from Dhanbad to Alappuzha, Alappuzha Express, while the train crossing Salem junction, the NIB police, on specific information, conducted search on the petitioner, who was traveling in an unreserved compartment in seat No.54 at about 7.30 hours, he was found in possession of 5 Kgs of Ganja and same has been recovered from him. The accused has been remanded to judicial custody on the same day.

3. The learned counsel for the petitioner submitted that it is a false case foisted on the petitioner, who hails from Odisha, and he has not known Tamil language and he was forced to sign in a paper, which he has signed



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without knowing the impact. Further, it is contended that there is a mandatory violation on search and recovery of contraband. Since the violation of Section 50 of NDPS Act, the petitioner is granted bail in order to defend his case by engaging a counsel

4. The learned Government Advocate (Crl.Side) for the State submitted that the accused was explained about the scope of Section 50 of NDPS Act and his statement was recorded with the help of C.R.P.F., Police Constable by name Munusamy and there is no violation of Section 50 of NDPS Act as alleged.

5. On perusal of CD file and rival submissions made by the learned counsels, this Court grants bail to the petitioner and he is ordered to be released on bail subject to the following conditions;

(a) the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** with two sureties, where one shall be from the local surety and one shall be blood related surety, each for a like sum to the satisfaction of the learned **Judicial Magistrate Court No.2, Salem;**



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(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioner shall stay at Salem and report before the Investigating Officer daily at 10.30 a.m., for a period of two weeks from the date of release and thereafter, once in a week on every Monday at 10.30.a.m., until further orders;

(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 Judicial 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.

16.06.2023

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To

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- 1.The Judicial Magistrate Court No.2, Salem.
- 2.The Inspector of Police,
NIB-CID Salem Police Station,
Salem District.
- 3.The Superintendent of Prison,
Central Prison, Salem.
- 4.The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN, J.

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