



Crl.O.P.No.13487 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.07.2023

CORAM

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

Crl.O.P.No.13487 of 2023

Sathya @ Muthukumaran,
S/o Dhanasekar

... Petitioner

/versus/

The State represented by
The Inspector of Police,
Royapuram Police Station,
Chennai.
(Crime No.95 of 2023)

... Respondent

PRAYER : Criminal Original Petition filed under Section 439 of Criminal Procedure Code, pleaded to enlarge the petitioner on bail in C.C.No.361 of 2023, pending trial on the file of the II Additional Special Court under NDPS Act, Chennai.

For Petitioner : Mr.J.William Shakesphere
For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 02.04.2023 for the offence punishable under Sections 8(c) r/w 20(b)(ii)(c), 25 and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.95 of 2023, on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that on 02.04.2023, on receipt of the secret information about illegal sale of narcotic substances, respondent police went to the nearby Royapuram GM Pettai Road, near Rajagopal School, where they found four unknown persons/accused were standing near the Swift Car bearing registration No.TN-11-AW-1545 and on seeing the respondent, they attempted to escape and the respondent had caught hold of them. During search, the respondent found that the accused were in illegal possession of 36 kilograms of Ganja, which is a commercial quantity. Hence the case.



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3. Learned counsel appearing for the petitioner submitted that the petitioner is arrayed as A3 in this case and he is an innocent person, aged about 30 years and he has been falsely implicated in this case, since he happens to be the friend of one Karthik, who has been arrayed as A2. He further submitted that on 02.04.2023, when the petitioner along with some other friends were standing near the Swift Car bearing registration No.TN-11-AW-1545 belonging to the mother of A2, the respondent police has arrested A2, the petitioner herein and other friends. He also submitted that the contraband was recovered only from A1 and even as per prosecution, the contraband was stated to be recovered from A1 and A2-Karthik and they have confessed that along with other accused they had purchased the alleged contraband from Andhra Pradesh with an intention to sell the same to others in Chennai. Other than the allegation the petitioner and other friends were standing near the car, no other material to connect the petitioner and that even as per the prosecution, the contraband alleged is said to be recovered only from A1, and there is no recovery from the present petitioner and he had no previous case against him. He also submitted that one Vinodh/A4, who is also arrested on 02.04.2023 along with the petitioner was granted bail in



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Crl.O.P.No.11508 of 2023 on 08.06.2023. He further reiterated that the the petitioner has been arrested only because he happens to be the friend of A1 and A2 and he is in custody from 02.04.2023 and the period of incarceration would be taken into consideration, hence, he prayed for grant of bail to the petitioner.

4. The respondent Police has filed a detailed counter.

5. Learned Government Advocate (Crl.Side) appearing for the respondent Police submitted that on 02.04.2023, when the respondent had conducted search in the car belonging to the mother of A2, the petitioner (A3) along with other accused was found to be in illegal possession of 36 kilograms of Ganja, which is a commercial quantity. He fairly conceded that the contraband was recovered only from the first accused and the confession statement was recorded from A2, who is the car owner's son, and he had confessed that he had purchased the alleged contraband from Andhra Pradesh. He further submitted that investigation in this case has been completed and the case has also been taken up for trial in C.C.No.361 of 2023 pending on the file of the II Additional Special Court under NDPS Act, Chennai and the case now stands posted



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for engaging counsel. However, he opposed for grant of bail to the petitioner.

6. At this juncture, the learned counsel for the petitioner submitted that the petitioner, without prejudice to his defence and contention, is ready and willing to deposit an amount of Rs.20,000/- to any welfare scheme run by the Government. Hence, he prayed for grant of bail to the petitioner.

7. Heard the learned Counsel for the Petitioner and the learned Government Advocate (CrI.Side) for the respondent Police and perused the materials available on record.

8. On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) to the credit of "The Dean, Rajiv Gandhi Government General Hospital, Chennai", without prejudice to his rights and contentions before the trial Court.



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9. Merely, because the 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.

10. In view of the above and the similarly placed co-accused, who is A4, was granted bail in CrI.O.P.No.11508 of 2023 on 08.06.2023, this Court is of the opinion that the alleged contraband was recovered only from the first accused and no recovery was made in respect of the present petitioner, thereby, the petitioner has satisfied the conditions required under Section 37 of NDPS Act.

11. Taking into consideration the above 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 petitioner has come forward to deposit an amount of Rs.20,000/- to the credit of "The Dean, Rajiv Gandhi Government General Hospital, Chennai", this Court is inclined to grant bail to the petitioner with certain conditions.

12. Accordingly, the petitioner is ordered to be released on bail



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on condition to make a non-refundable deposit of **Rs.20,000/- (Rupees Twenty Thousand only)** directly to the credit of **“The Dean, Rajiv Gandhi Government General Hospital, Chennai, bearing A/c. No.10273425961, State Bank of India, Park Town (Chennai), 68, Evening Bazaar Road, Chennai, IFSC:SBIN0001856”**, without prejudice to his rights and contentions before the trial Court and 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 II Additional Special Court under NDPS Act, 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 petitioner shall appear before the II Additional Special Court under NDPS Act, on all working days at 10.30 a.m., until further orders;**

[c] the petitioner shall not abscond during



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trial;

[d] the petitioner shall not tamper with evidence or witness during 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 abscond, a fresh FIR can be registered under Section 229A IPC.

21.07.2023

To

1. The II Additional Special Court under NDPS Act, Chennai.
2. The Inspector of Police, N-1, Royapuram Police Station, Chennai.
3. The Central Prison, Puzhal, Chennai.
4. The Public Prosecutor, High Court, Madras.

A.D.JAGADISH CHANDIRA,J.



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