



Crl.O.P.No.13624 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.06.2023

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

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1. Ajithkumar @ Ajith

2. Arivazhagan @ Ari

... Petitioners

/versus/

The State represented by
The Inspector of Police,
E-5, Sholavaram Police Station,
Thiruvallur District.

(Crime No.335 of 2023)

... Respondent

PRAYER : Criminal Original Petition filed under Section 439 of Criminal Procedure Code, pleased to enlarge the petitioners on bail in connection with Crime No.335 of 2023, pending on the file of the respondent Police.

For Petitioners : Mr.P.Chandrasekar

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

ORDER



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The petitioners, who were arrested and remanded to judicial custody on 05.05.2023 for the offence punishable under Sections 8(c), 20(b)(ii)(B) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.335 of 2023, on the file of the respondent Police, seek bail.

2. The case of the prosecution is that on 04.05.2023, on receipt of the secret information about illegal sale of Ganja, respondent police had gone to the scene of occurrence, wherein, they found that the accused were in illegal possession of 1.200 kilograms of Ganja. Hence the case.

3. Learned counsel appearing for the petitioners submitted that the petitioners are innocent persons, aged about 22 years and they have been falsely implicated in this case, since they have got some previous cases. He further submitted that the petitioners are in custody from 05.05.2023 and they are ready to abide by any stringent conditions that may be imposed by this Court, hence, he prayed for grant of bail to the petitioners.



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4. The respondent has filed a detailed counter.

5. Learned Government Advocate (Crl.Side) appearing for the respondent Police submitted the petitioners/A1&A2 were found to be in illegal possession of 1.200 kilograms of Ganja. He further submitted that the investigation in this case is still pending. He also submitted that the first petitioner is a History Sheeted rowdy in H.S.No.55 of 2021, against whom, 14 previous are pending including two cases registered under NDPS Act and in respect of A2, four previous cases are pending. Hence, he opposed for grant of bail to the petitioners.

6. At this juncture, the learned counsel for the petitioners submitted that the petitioners, without prejudice to their defence and contention, are ready and willing to deposit considerable amount to any welfare scheme run by the Government or any Government organisation. Hence, he prayed for grant of bail to the petitioners.

7. Heard the learned Counsel for the petitioners and the learned



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Government Advocate (Crl.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 petitioners, the first petitioner is directed to deposit a sum of Rs.30,000/- (Rupees Thirty Thousand only) and the second petitioner is directed to deposit a sum of Rs.15,000/- (Rupees Fifteen Thousand only) to the credit of "The Dean/Medical Officer, Government District Head Quarters Hospital, Thiruvallur District", without prejudice to their rights and contentions before the trial Court.

9. Merely, because the petitioners deposit the said amount, it would not amount to admission of their guilt. Therefore, it is open to the trial Court to deal with the case independently.

10. Taking into consideration the above facts and circumstances of the case, the submissions made by the learned counsel on either side and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners



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with certain conditions.

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11. Accordingly, the first petitioner is ordered to be released on bail on condition to make a non-refundable deposit of **Rs.30,000/- (Rupees Thirty Thousand only)** and the second petitioner is ordered to be released on bail on condition to make a non-refundable deposit of **Rs.15,000/- (Rupees Fifteen Thousand only)**, directly to the credit of **“The Dean/Medical Officer, Government District Head Quarters Hospital, Thiruvallur District”**, without prejudice to their rights and contentions before the trial Court and on such deposit and production of proof, the petitioners are ordered to be released on bail on their executing separate bond each 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 No.II, Ponneri**, 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;



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[b] the petitioners shall report before the respondent Police everyday at 10.30 a.m., until further orders;

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

[d] the petitioners 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 petitioners 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.

22.06.2023

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To

1. The Judicial Magistrate No.II,
Ponneri,
2. The Inspector of Police,
E-5, Sholavaram Police Station,
Thiruvallur District.
3. The Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court, Madras.



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A.D.JAGADISH CHANDIRA.,J.

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