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CrI.O.P.No.13727 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

CORAM

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

CrI.O.P.No.13727 of 2023

Alekka Nayak

... Petitioner

Vs.

State rep by
The Inspector of Police
NIB CID Salem Police Station,
Salem District.

Crime No.17 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.17 of 2023 on the file of
the respondent police.

For Petitioner : Mr.C.Deepak Kumar

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 10.03.2023 for the offences punishable under Sections 8(c) r/w
20(b)(ii)(B) of NDPS Act, in Crime No.17 of 2023 on the file of the
respondent police, seeks bail.



2. The case of the prosecution is that on 10.03.2023, the petitioner was found in illegal possession of 5 kgs of Ganja. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that even as per the prosecution, the contraband alleged to have been recovered from the petitioner is of an intermediate quantity. He would further submit that the petitioner has been suffering incarceration from 10.03.2023. Hence, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner was found in possession of 5 kgs of Ganja. He would further submit that one previous case is pending against the petitioner. He would also submit that the investigation has been completed and the final report has been filed before the Special Court for EC/NDPS Act cases, Salem and the case has been taken up for trial in Spl.C.C.No.119 of 2023. However, he opposed for grant of bail to the petitioner.



5. At this juncture, the learned counsel for the petitioner would submit that without prejudice to his defence, the petitioner is ready and willing to deposit a substantial amount to any welfare scheme run by the Government as may be directed by this Court. Hence, he prayed for grant of bail to the petitioner.

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

7. On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) to the credit of **"The Dean/Medical Officer, Government Mohan Kumaramangalam Medical College Hospital, Salem"** without prejudice to his rights and contentions before the trial Court.

8. Merely, because the petitioner deposits 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.



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9. Considering the above facts and circumstances of the case, the submissions made by the learned counsel on either side and the period of incarceration undergone by the petitioner, this Court is inclined to grant of bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is directed to make a non refundable deposit of Rs.50,000/- (Rupees Fifty Thousand Only) directly to the credit of **"The Dean/Medical Officer, Government Mohan Kumaramangalam Medical College Hospital, Salem"** without prejudice to his rights and contentions and on such deposit and production of proof before the trial Court, 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 Judicial Magistrate No.II, 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 learned Special Judge for EC/NDPS Act cases, Salem, on all working days at 10.30 a.m., until further order and also report before the respondent Police, on every



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Saturday at 10.30 a.m., until further orders;

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

[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 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.

28.06.2023

vkrr

To

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



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A.D.JAGADISH CHANDIRA,J.,

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