



Crl.O.P.No.13771 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2023

CORAM

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

Crl.O.P.No.13771 of 2023

1. Kumar

2.Arunkumar

... Petitioners

Vs.

State Rep. by
The Inspector of Police
PEW-Hosur Police Station
Krishnagiri District
(Crime No.577 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.577 of 2023 pending on
the file of the respondent police.

For Petitioners : Mr.W.Camyles Gandhi

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 18.05.2023 for the offences punishable under **Sections 8(c) read with 20(b)(ii)(B) of NDPS Act, in Crime No.577 of 2023** on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 18.05.2023, the petitioners were found in possession of 2.250 Kgs. of Ganja. Hence, the case.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case and they have been languishing in jail for more than a month from 18.05.2023. On instructions, he would further submit that without prejudice to their defence, the petitioners are 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 petitioners.

4. The respondent has filed a detailed counter.



5. The learned Government Advocate (Crl. Side) appearing for the respondent vehemently opposed for grant of bail to the petitioners stating that the petitioners were found in possession of 2.250 Kgs. of Ganja. As far as the 1st petitioner/A1 is concerned, 1.250 Kgs. of Ganja was recovered from him and he has got 2 previous cases out of which, one case is of similar nature. As far as the 2nd petitioner/A2 is concerned, 1 Kg. of Ganja was recovered from him and he has got two previous cases of similar nature.

6. At this juncture, the learned counsel for the petitioners would submit that as far as the previous cases are concerned, they have been registered for illegal possession of minimum quantity of Ganja viz., 50 grams, 100 grams and 300 grams respectively. Hence, he prayed for grant of bail to the petitioners.

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

8. On considering the voluntary submission made by the learned counsel for the petitioners, this Court is of the opinion that the petitioners



shall be directed to deposit a sum of **Rs.20,000/- and Rs.30,000/-** respectively by way of RTGS/NEFT to the credit of "**The Dean/Medical Officer, Government Mohan Kumaramangalam Medical College and Hospital, Salem**" 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. 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 petitioners, this Court is inclined to grant of bail to the petitioners with certain conditions.

11. Accordingly, the **1st petitioner** is directed to deposit a sum of **Rs.20,000/- (Rupees Twenty Thousand Only)** and the **2nd petitioner** is directed to deposit a sum of **Rs.30,000/- (Rupees Thirty Thousand Only)** as non refundable deposit by way of RTGS/NEFT to the credit of "**The Dean/Medical Officer, Government Mohan Kumaramangalam Medical**



College and Hospital, Salem" 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 a separate 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 Additional District Judge/Presiding Officer, Special Court under EC/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 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;



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[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.

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To

1. The Additional District Judge/
Presiding Officer, Special Court under EC/NDPS Act Cases, Salem
2. The Inspector of Police
PEW-Hosur Police Station
Krishnagiri 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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