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CrI.OP.No.14087 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.08.2023

CORAM

THE HON'BLE MR. JUSTICE **G.CHANDRASEKHARAN**

CrI.OP.No.14087 of 2023

Sibani Sankar Nayak

..Petitioner

Vs.

The State Rep. By
The Inspector of Police,
Tiruppur North Police Station,
Tiruppur District.
Crime No.245 of 2023

...Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to enlarge the petitioner on bail in Crime No.245 of 2023
pending investigation on the file of the respondent police.

For Petitioner : Mr.P.Thinesh

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 04.03.2023 for the offences punishable under Sections 8(c) read with Section 20(b)(ii)(c) of NDPS Act in Crime No.245 of 2023, on the file of the respondent police seeks bail.

2. The learned counsel for the petitioner submitted that, petitioner is an innocent person and he has been falsely implicated in a case registered for the offences under Sections 8(c) read with Section 20(b)(ii)(c) of NDPS Act in Crime No.245 of 2023 for the reason that, on 12.02.2023 at about 12.30.hrs., Railway Police found 21 kgs of Ganja in the train running between Erode to Tiruppur, underneath to the seat of the petitioner in the rear side of the general coach. He further submitted that, petitioner is implicated in this case, based on his confessional statement. Thus he seeks bail to the petitioner.

3. This Court, during the previous hearing, directed the learned Government Advocate (Crl. Side) to get instructions as to whether there is any other incriminating material to implicate the petitioner in this case, except his confessional statement.

4. Today, the learned Government Advocate (Crl. Side) on



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instructions from Mr.Dhanasekhar, Sub-Inspector of Police, Tiruppur North Police Station submitted that, except the confessional statement of the petitioner, there is no other incriminating material available to implicate the petitioner in this case. He further submitted that, there is a previous case pending against the petitioner except the case in Crime No.340 of 2023, involving 350 grams of ganja.

5. In view of the submissions of the learned counsels on either sides, this Court finds that, there is no incriminating material to implicate the petitioner except his confessional statement. The consignment was not recovered from the petitioner. In the said circumstances, though it is a case of commercial quantity, prima facie respondent police had not established the guilt of the petitioner. Thus, it is reasonably believed that, petitioner is not guilty of the offence alleged against him. Pending similar case is a case of illegal possession of small quantity of ganja and it is not yet disposed. Taking all these facts into consideration, this Court is inclined to grant bail to the petitioner.

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



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on his executing a bond for a sum of **Rs.25,000/-** (Rupees Twenty Five thousand only) with **two sureties**, each for a like sum to the satisfaction of the learned **Additional District Judge/ Presiding Officer, Special Court for Essential Commodities Act Cases, Coimbatore** 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 respondent police daily at 10.30.a.m., for a period of sixty days and thereafter as and when required. It is made clear that, petitioner should not file relaxation petition before expiry of thirty days.

[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,



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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 absconds, a fresh FIR can be registered under Section 229A IPC.

01.08.2023

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To

- 1.Additional District Judge/ Presiding Officer,
Special Court for Essential Commodities Act Cases, Coimbatore
- 2.The Inspector of Police,
Tiruppur North Police Station,
Tiruppur District.
- 3.Central Prison,
Coimbatore.
- 4.The Public Prosecutor,
High Court of Madras

G.CHANDRASEKHARAN. J.



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