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CrI.OP.No.14187 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.OP.No.14187 of 2023

Jahir Hossain

... Petitioner

Vs.

The State represented by
The Inspector of Police,
Chemmanchery Police Station,
(Crime No.856 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to release the petitioner on bail in CC.No.334 of 2021 on the file of the Special Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai

For Petitioner : Mr.K.A.M.Jagadish Kumar

For Respondent : Mr.R.Kishore Kumar,
Government Advocate
(crl.side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 15.11.2021 for the offences punishable under Sections 8(c) r/w 20(b) (ii) (B) of NDPS Act, in Crime No.856 of 2021, on the file of the respondent police, and pending trial in C.C.No.334 of 2021 before the learned Special Judge, II Additional Special Court for Exclusive Trial of cases under NDPS Act, Chennai, seeks bail.

2. The case of the prosecution is that on 15.11.2021, the respondent police received a secret information, the Sub-Inspector of Police along with his team went to the scene of occurrence and found three persons were standing with gunny bags and seized 1Kg of ganja from A1. On confession given by A1, from their rental house the respondent police seized 24 kgs of ganja. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and there is no recovery from this petitioner and based on the confession statement recorded from the other



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accused, the petitioner has been falsely implicated in this case. He further submitted that the case has been taken up on the file of the learned Special Judge, II Additional Special Court for Exclusive Trial of cases under NDPS Act, Chennai, in C.C.No.334 of 2021. He further submitted that already this Court granted bail to a co-accused in Crl.OP.No.15384 of 2023 dated 06.07.2023. Therefore, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) submitted that the petitioner along with other accused were involved in illegal possession of 25 kgs of dry ganja. He also stated that based on the information, the police team seized 24 kgs of dry ganja from the house of A1, which comes under commercial quantity. He also stated that the investigation also completed and the charge sheet was also filed in CC.No.334 of 2021 dated 14.12.2021 before the II Additional Special Judge for EC and NDPS Cases, Chennai. However, he opposed to grant bail to the petitioner.



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5. Considering the facts and circumstances of the case and also there is no recovery from the petitioner, and the commercial quantity recovered only from the house of A1, and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties out of which one surety is a local surety, for a like sum to the satisfaction of the Special Judge, II Additional Special Court for Exclusive Trial of Cases 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 report before the trial Court daily at 10.30 a.m., until completion of the trial.

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;



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(d)the petitioner shall not abscond 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 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]; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Special Judge,
II Additional Special Court for Exclusive Trial of Cases
under NDPS Act, Chennai
- 2.The Inspector of Police,
Chemmanchery Police Station.
- 3.The Superintendent,
Central Prison-II, Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court of Madras.

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