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Crl.OP.No.14542 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.07.2023

CORAM

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

Crl.OP.No.14542 of 2023

1.Bharathiraja @ Kattar

2.Masthan @ Panchar Masthan

...Petitioners

Vs.

The State Rep by its
The Inspector of Police,
Poonamallee Police Station,
Avadi City.
(Crime No.278 of 2023)

...Respondent.

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to enlarge the petitioner on bail pending investigation in
Cr.No.278 of 2023 on the file of the respondent Police.

For Petitioners : Mr.R.Sasikumar

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.side)



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ORDER

The petitioners, who were arrested and remanded to judicial custody on 16.05.2023 for the offences punishable under Section 294 (b), 353, 506 (i) of I.P.C. and Sections 29 (1), 8 (c), 20 (b) (ii) (A) of Narcotics Drugs & Psychotropic Substances Act, 1985 in Crime No.278 of 2023 on the file of the respondent police, seek bail.

2.The learned counsel for the petitioners submitted that, petitioners are falsely implicated as accused in Cr.No.278 of 2023 for the offences under Section 294 (b), 353, 506 (i) of I.P.C. and Sections 29 (1), 8 (c), 20 (b) (ii) (A) of Narcotics Drugs & Psychotropic Substances Act, 1985. Petitioners are in judicial custody from 16.05.2023. Therefore, he prays for grant of bail to the petitioner.

3.In response, the learned Government Advocate (Criminal Side) submitted that petitioners tried to give 10 gram of Ganja to one Kadhar Basha, who was produced by the Police for extension of remand before the learned Judicial Magistrate No.II, Poonamallee, on 16.05.2023. The



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first accused has previous case pending.

4.Considered the rival submissions and perused the records.

5.Considering the nature of offence against the petitioners and that first petitioner has previous case, this Court is not inclined to grant bail to the first petitioner. However, the fact that this is a first case against the second petitioner and he is in judicial custody from 16.05.2023, this Court is inclined to grant bail to the second petitioner with conditions. Accordingly, this petition is partly allowed.

6. Accordingly, the second 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 II, Poonamallee**, 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



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Bank pass Book to ensure their identity.

[b] the second petitioner shall report before the respondent Police daily at 10.30.a.m., until further orders.

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

[d] the second 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 second petitioner in accordance with law as if the conditions have been imposed and the second 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.



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To

1.The Judicial Magistrate II, Poonamallee

2.The Inspector of Police,
Poonamallee Police Station,
Avadi City.

3.Central Jail, Puzhal.

4.The Public Prosecutor,
High Court of Madras



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G.CHANDRASEKHARAN. J.

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