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Crl.OP.No.15318 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

CORAM

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

Crl.OP.No.15318 of 2023

Murugan @ Vishnu

..Petitioner

Vs.

State by:

The Inspector of Police,

NIB-CID,

Chennai.

(Crime No.11 of 2023)

..Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. pleaded to enlarge the petitioner on bail in Crime No.11 of 2023, pending investigation on the file of the respondent Police.

For Petitioner : Mr.A.Anandharaj

For Respondent : Mr.R.Kishore Kumar
Government Advocate (Criminal Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 07.03.2023 for the alleged offences under Sections 8(c), 20(b)(ii)(C) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.11 of 2023 on the file of the respondent police, seeks bail.



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2. The case of the prosecution is that the petitioner along with other accused were found in possession of 36 Kgs of Ganja. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He would further submit there are totally three accused, in which the petitioner is arrayed as A2. The petitioner was found in possession of 2 kgs of Ganja. Since the first accused was arrested with 36 kgs of Ganja, two other persons were implicated as accused in this case. The petitioner has no previous cases and he has been falsely implicated in this case. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Criminal Side) would submit that there are totally three accused, in which the petitioner is arrayed as A2. The petitioner, along with other accused were found in possession of 36 Kgs of Ganja. Hence, he vehemently opposed grant of bail to the petitioner.

5. It is seen that there are totally three accused, in which the petitioner is arrayed as A2. Even according to the case of the prosecution, the



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first accused was found in possession of 36 kgs of Ganja. On showing his mobile phone, the respondent found the mobile number of the petitioner and immediately called the petitioner through the mobile phone. The petitioner attended the call and stated about his residence at Pondicherry. Thereafter, the respondent went to Pondicherry and arrested the petitioner with the contraband weighing 2 Kgs.

6. A perusal of records revealed that except the statement of the first accused, there is no other material to connect the petitioner along with the first accused. The first accused belong to Orissa. He was found in possession of 36 kgs of Ganja. The petitioner is residing at Pondicherry and he has no other previous cases. Even according to the respondent, the petitioner was arrested at Pondicherry and brought to Chennai and shown his remand at Chennai. Even assuming that the petitioner was found in possession of 2 kgs of Ganja, it is an intermediate quantity and the petitioner also made out a prima facie case to satisfy the twin conditions as contemplated under Section 37 of the NDPS Act.

7. Taking into consideration the facts of the case and the submissions made by the learned counsels and also taking note of the fact that the petitioner



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is in judicial custody from 07.03.2023, this Court is inclined to grant bail to the petitioner with certain conditions.

8. Accordingly, 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 blood related sureties**, each for a like sum to the satisfaction of the **learned XVI Metropolitan Magistrate, GT, 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 respondent police daily at 10.30 a.m. and 5.30 p.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 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].



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

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G.K.ILANTHIRAIYAN, J.

mn

To

1.The XVI Metropolitan Magistrate, GT, Chennai.

2.The Inspector of Police,
NIB-CID,
Chennai.

3.Central Prison,
Puzhal.

4.The Public Prosecutor,
High Court of Madras.

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