



Crl.O.P.No.15352 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

CORAM

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

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P.Bala

...Petitioner

Vs.

The State Represented by,
Inspector of Police,
Ramanathapuram Police Station,
Coimbatore District.
Crime No.477 of 2022

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. to enlarge the petitioner on bail in Crime No.477 of 2022 on the file of the respondent police.

For Petitioner : Mr.G.Jaisivaramaraj

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 20.10.2022 for the offences punishable under Sections 8(c) r/w. 20(b)(ii)(C) & 25 of Narcotic Drugs & Psychotropic Substances Act, 1985 in Crime No.477 of 2022 on the file of the respondent police, seeks bail.

2.It is the submission of the learned counsel for the petitioner that petitioner is falsely implicated as accused in Crime No.477 of 2022 for the offences under the Sections 8(c) r/w. 20(b)(ii)(c) & 25 of Narcotic Drugs & Psychotropic Substances Act, 1985. As per the First Information Report allegations, petitioner along with one Mohammed Rasik said to have been found near Bishop Amburose College, Ramanathapuram Sungam Bypass road, in two-wheeler bearing No.TN 37 DK 6726 at about 16.00 hours. It is also alleged that a woman had followed them in two-wheeler bearing No.TN 66 AD 4827 handed over a sack containing 21 and ½ kg of Ganja. This is totally a false allegation. On the date and time alleged by the prosecution that petitioner was found



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with accused Mohammed Rasik, near Bishop Amburose College, petitioner was near Velan Coffee house at Saibaba Colony. The distance between the Velan Coffee house, Saibaba Colony and Bishop Amburose College is approximately 5kms. Therefore, petitioner could not have been present near Bishop Amburose College. In support of his submission, he produced pendrive containing video footage and xerox copy of video footage to show that petitioner was near Velan coffee house, Saibaba Colony at 16.02.11 hours on 19.10.2022.

3.In response, the learned Additional Public Prosecutor submitted that the video footage produced by the petitioner cannot be relied unless it is subjected to scrutiny during the course of recording of evidence. He further submitted that respondent Police recorded submission of one Annet Bvera, the Manager at Velan coffee house and one T.R.Surendrakumar, the owner of Crown Communication, responsible for maintaining CCTV.

4.It is the further submission of learned Additional Public



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Prosecutor that there is a time difference of 45 minutes to 1 hour in the recording of CCTV footage due to electricity disconnection and malfunctioning of UPS. As per the statement of Annet Bvera, one person approached her stating that, that person lost his two-wheeler in front of Velan Coffee House and requested CCTV footage. This was informed to T.R.Surendrakumar and then video footage was furnished. It is submitted by the learned Additional Public Prosecutor that in view of the possibility of time difference from 45 minutes to one hour, the claim of the petitioner that petitioner was not present at the spot on 4.00 p.m on 19.10.2022 cannot be accepted now. This is a case of commercial quantity of Ganja and thus he seeks dismissal of this petition.

5.Considered the rival submissions and perused the records.

6.This Court had viewed the CCTV footage produced in the form of pendrive. It is seen from CCTV footage that petitioner was found near Velan Coffee house, Saibaba Colony at about 04.00 pm on 19.10.2022. As of now, petitioner has *prima-facie* established, rather created doubt in



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the mind of this Court that it was not possible for the petitioner to be present near Bishop Amburose College at 04.00 p.m on 19.10.2022. It is the submission of learned Additional Public Prosecutor that there is a time difference of 45 minutes to 1 hour and therefore, CCTV footage cannot be relied now. This matter to be considered only at the time of trial. In view of *prima-facie* case made out by the petitioner that it is not possible for him to be present at 04.00 p.m on 19.10.2022 near Bishop Amburose College, this Court is of the view that false implication of the petitioner in this case cannot be ruled out. Thus, there is no need to consider or satisfy twin conditions contemplated under Section 37 of NDPS Act. In view of the reasons stated above, this Court is inclined to grant bail to the petitioner.

7. Accordingly, petitioner is ordered to be released on bail 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



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

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To

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



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G.CHANDRASEKHARAN. J.

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