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Crl.O.P.No.18119 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM

THE HON'BLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.18119 of 2023

Pavadappa Bhimappa Belagal

...Petitioner

Vs.

The State Rep by
The Inspector of Police,
PEW Harur Police Station,
Dharmapuri District.
Crime No.538 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.538 of 2023 on the file of the respondent police.

For Petitioner : Mr.C.Deepakkumar

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 16.06.2023 for the offence punishable under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act in Crime No.538 of 2023 on the file of the respondent police, seeks bail.

2.The learned counsel for the petitioner submitted that, petitioner is falsely implicated as an accused in Crime No.538 of 2023 for the offences under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act. Petitioner is innocent. Petitioner is in judicial custody from 16.06.2023. Therefore, he prays for grant of bail to the petitioner.

3. Learned Additional Public Prosecutor, opposed this petition, on the ground, on 16.06.2023, at about 5.00 a.m., defacto complainant along with police party were engaged in surveillance, to prevent offences relating to prohibition Act and found the accused near Morappur Bus stand with sack covered in a polythene cover. After following necessary procedure, a search was conducted and it was found that, the sack



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possessed by the petitioner contained 9.5 kgs of ganja. Ganja was seized.

He further submitted that, this is the 1st case against the petitioner registered under NDPS Act, however, he prays for dismissal of this petition.

4 .Considering the fact that, ganja has been recovered and that the petitioner is in judicial custody from 16.06.2023 and that, this is the 1st case registered against the petitioner under NDPS Act, and that material part of the investigation might have been over by this time, this Court is inclined to grant bail to the petitioner with conditions and the petitioner is ordered to be released on bail on their executing a bond for a sum of **Rs.25,000/-** (Rupees Twenty Five Thousand only) with **two sureties** (one surety should be from the petitioner's native place), each for a like sum to the satisfaction of the **learned Judicial Magistrate-2, Salem** 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.



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[b] the petitioner without prejudice to his defence shall deposit a non-refundable sum of Rs.10,000/-, by way of Demand Draft to the Chief Minister's Public Relief Fund, Finance (CMPRF) Department, Government of Tamil Nadu, Secretariat, Chennai 600 009, Tamil Nadu, India, Indian Overseas Bank, Secretariat Branch, Chennai 600 009, S.B.Account No.11720 10000 00070, IFS Code IOBA0001172, CMPRF PAN: AAAGC0038F and that the receipt of such payment shall be produced before the concerned Magistrate at the time of executing the bond; It is made clear that merely, because the petitioner deposits the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

[c] the petitioner shall report before the respondent police daily morning at 10.30 a.m., until further orders.

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

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.



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[f] 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].

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

10.08.2023

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To

1.The Judicial Magistrate-II, Salem.

2.The Inspector of Police,
PEW Harur Police Station,
Dharmapuri District.

3.Central Prison,
Salem.

4.The Public Prosecutor,
High Court of Madras



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G.CHANDRASEKHARAN. J.

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