



Crl.O.P.No.17607 of 2023

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A.D.JAGADISH CHANDIRA,J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 8(c) r/w 20(b)(ii)(B), 25 and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.54 of 2023 on the file of the respondent Police, seeks anticipatory bail.

2. The case of the prosecution is that as per the complainant one Suresh, on secret information, the respondent police and the Sub Inspector of Police, Bangala Puthur had intercepted the vehicle viz., Maruti Esteem bearing registration No.TN-37-J-2200 and when the occupants in the car were examined, they found a polythene bag containing the contraband weighing 2kgs of Ganja and that when they were enquired, they informed that they had received Ganja from Kirubakaran of Komarapalayam and Rajasekaran of Kaliyanganarayanpalayam and the said persons informed that it was entrusted by famous Ganja seller one Araippal Senthil @ Senthilkumar of Bhavani and thereafter, they were arrested and remanded to judicial custody.



CrI.O.P.No.17607 of 2023

3. Learned counsel for the petitioner would submit that it is the second petition seeking anticipatory bail and the earlier petition in CrI.O.P.No.8936 of 2023 filed by the petitioner was dismissed on 02.06.2023 since certain important facts were not brought to the knowledge of the Court. He would further submit that this Court, taking into consideration the previous cases against the petitioner, dismissed the earlier petition, but in all the previous cases, the petitioner has been released on bail and being antagonised by the same, the respondent police has falsely implicated him in this case based on the confession recorded from the arrested accused and that the petitioner is innocent and his name is not shown in the list of accused in the FIR and only in the content of the FIR his name has been mentioned as if the arrested accused have confessed that the contraband was supplied to them by Kirubakaran of Komarapalayam and Rajasekaran of Kaliyanganarayanpalayam and that they had told him that it was supplied to them by the petitioner herein. Other than this statement alleged to have been recorded from the arrested accused, there is no other statement in this regard. In the previous cases also the petitioner was arrested only on the basis of confession and since he was granted bail in all the cases, the petitioner has been falsely implicated in this case based on



Crl.O.P.No.17607 of 2023

the confession of the above stated arrested accused. Even as per the First Information Report, there is absolutely no direct nexus between the arrested accused and the petitioner. The respondent police never seized any contraband from the petitioner nor he possess the contraband. Learned counsel would further submit that the petitioner is ready to abide by any stringent conditions that may be imposed on him by this Court and he will co-operate for the further investigation. Hence, he prayed for grant of anticipatory bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent Police would submit that the petitioner has been implicated in this case based on the confession recorded from the other accused and the petitioner is the habitual offender involved in offences of NDPS as well as IPC. He would further submit that the petitioner has got ten previous cases, out of which, six cases are of similar offence registered under NDPS Act and hence, opposed for grant of anticipatory bail to the petitioner.

5. At this juncture, the learned counsel for the petitioner submitted that the petitioner, without prejudice to his defence and contention, is ready



CrI.O.P.No.17607 of 2023

and willing to deposit an amount of Rs.20,000/- to any welfare scheme run by the Government. Hence, he prayed for grant of anticipatory bail to the petitioner.

6. Heard the learned Counsel for the Petitioner and the learned Government Advocate (CrI.Side) for the respondent Police and perused the materials available on record.

7. On considering the submission made by the learned counsel for the petitioner that the petitioner has been implicated in this case based on the confession recorded from the arrested accused and other than that, the petitioner was not present at the scene of occurrence and his name does not find a place in the First Information Report and also taking into consideration the voluntary submission made by the learned counsel that the petitioner is ready and willing to deposit a sum of Rs.20,000/- (Rupees twenty thousand only) to the credit of "The Dean, Government Medical College and Hospital at Perundurai", without prejudice to his rights and contentions before the trial Court, this Court is of the view that the petitioner can be granted the relief of anticipatory bail.



CrI.O.P.No.17607 of 2023

8. Merely because the petitioner is willing to deposit 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.

9. In view of the above, this Court is of the opinion that the alleged contraband was recovered only from the accused and no recovery was made in respect of the present petitioner, thereby, the petitioner has satisfied the twin conditions required under Section 37 of NDPS Act.

10. Taking into consideration the above facts and circumstances of the case, the submissions made by the learned counsel on either side and also taking note of the fact that the petitioner has come forward to deposit an amount of Rs.20,000/- to the credit of "The Dean, Government Medical College and Hospital at Perundurai", this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

11. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy is made ready, on condition to make a



CrI.O.P.No.17607 of 2023

non-refundable deposit of **Rs.20,000/- (Rupees Twenty Thousand only)**

by way of Demand Draft/RTGS/NEFT to “The Dean/Medical Officer, Government Medical College and Hospital at Perundurai”, without prejudice to his rights and contentions before the trial Court and on such deposit and production of proof, the petitioner is ordered to be released on bail in the event of arrest 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 Special Judge for EC & NDPS Act Cases, Coimbatore**, 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 appear before the Special Court for EC & NDPS Act Cases, Coimbatore, on all working days at 10.30 a.m., until further orders;

[c] the petitioner shall not abscond during trial;

[d] the petitioner shall not tamper with evidence or witness during trial;

[e] On breach of any of the aforesaid



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CrI.O.P.No.17607 of 2023

conditions, the learned Special Judge/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 Special Judge/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 abscond, a fresh FIR can be registered under Section 229A IPC.

03.08.2023

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Crl.O.P.No.17607 of 2023

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Crl.O.P.No.17607 of 2023

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