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Crl.O.P.No.18139 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2023

CORAM

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

Crl.O.P.No.18139 of 2023

Balaji

...Petitioner

Vs.

The State Represented by,
Inspector of Police,
M-6, Manali Police Station,
Chennai.

(Crime No.348 of 2023)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. to enlarge the petitioner on bail in Crime No.348 of 2023 on the file of the respondent police.

For Petitioner : Mr.B.Shankar

For Respondent : Mr.S.Rajakumar

Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 10.07.2023 for the offences punishable under Section 8 (c) r/w 20 (b) (ii) (C) , 25, 29 (1), 120 (B) of NDPS Act and Section 120 (B) I.P.C in Crime No.348 of 2023 on the file of the respondent police, seeks bail.



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2.It is the submission of the learned counsel for the petitioner that petitioner is falsely implicated as accused in Crime No.348 of 2023 for the offences under Section 8 (c) r/w 20 (b) (ii) (C) , 25, 29 (1), 120 (B) of NDPS Act and Section 120 (B) I.P.C. Assuming that the prosecution case is true, petitioner was found with possession of only 5 kg of Ganja, which is an intermediate quantity. Petitioner is in judicial custody from 10.07.2023. Thus, he seeks bail.

3.In response, the learned Additional Public Prosecutor submitted that on 10.07.2023, on the basis of secret information, defacto-complainant along with Police party mounted surveillance near Manali junction at about 03.15 hours. Two persons came in two-wheeler bearing No.TN 05 CA 2634. After following necessary procedure, a search was conducted and Ganja weighing 11kg was recovered from the first accused namely Praveen. On the basis of confessional statement of A1 and A2, Police went to No.38, Balaraman Street, Manali, Chennai – 68 and made a search. They found A3 and A4 with possession of 10kg of Ganja, each having 5kg Ganja. He further submitted that this is a case of



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joint possession and it is a commercial quantity. Thus, he opposed this petition.

4.Considered the rival submissions and perused the records.

5.It is a case of seizure of Ganja at two different places. The Ganja said to have been seized from the petitioner is 5kg. There is no material produced so far, to show that Ganja was procured by the accused from a same source. Ganja was seized from two different places. Therefore, it is doubtful that whether the claim of joint possession can be imported in this case.

6.Considering the fact that only 5kg of Ganja was seized from this petitioner and that he is in judicial custody from 10.07.2023 and that material part of investigation might have been completed by this time, this Court is inclined to grant bail to the petitioner with conditions.



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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 Judicial Magistrate , Thiruvottiur**, 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 10.00 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



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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].

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

05.09.2023

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To

- 1.The Judicial Magistrate,
Thiruvottiyur.
- 2.Central Prison,
Puzhal, Chennai
- 3.Inspector of Police,
M-6, Manali Police Station,
Chennai.
- 4.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN. J.

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