



Crl.O.P.No.18762 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2023

CORAM

THE HON'BLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.18762 of 2023

Shanmugam

...Petitioner

Vs.

State Rep by
The Inspector of Police,
Kitchipalayam Police Station,
Salem City,
Salem District.
Crime No.300 of 2023.

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail concerned in Crime No.300 of 2023 on the file of the Inspector of Police, Kitchipalayam Police Station, Salem city.

For Petitioner : Mr.V.Sivaraman

For Respondent : Mr.S.Rajakumar,
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 21.06.2023 for the offence punishable under Sections 8(c) and 20(b)(ii)(B) of the NDPS Act in Crime No.300 of 2023 on the file of the respondent police, seeks bail.

2. Learned counsel for the petitioner submitted that, petitioner is an innocent person and he has been falsely implicated as an accused in a case registered for the offences punishable under Sections 8(c) and 20(b)(ii)(B) of the NDPS Act in Crime No.300 of 2023. Petitioner is in judicial custody from 21.06.2023. In the said circumstances, he seeks bail to the petitioner.

3. In response, learned Additional Public Prosecutor opposes this petition, on the ground that, petitioner was found with illegal possession of 1.750 kgs of ganja on 21.06.2023 at about 6.15 a.m., near Erumapalayam, Aalamarathukaadu. He was also in possession of cash of Rs.1,02,690/-, 2 ¹/₄ sovereigns of gold chain and 3 grams of gold ring, 186



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grams of silver waist chain, 10 grams of silver bracelet, Samsung android mobile phone and two OPPO android mobile phones and one Lava button cellphone. Petitioner has one similar case in Crime No.56 of 2022 registered under NDPS Act for illegal possession of 1.050 kgs of ganja was recovered from this petitioner. Thus, he seeks for dismissal of this petition.

4. Considered the submissions and perused the records.

4.1. When the matter was taken up for hearing on 30.08.2023, learned counsel for the petitioner submitted that, petitioner was implicated in Crime No.56 of 2022 under NDPS Act, on the basis of the confessional statement of the co-accused and there is no recovery of contraband from him. However, on perusal of the first information report in Crime No.56 of 2022 shows that, contraband of 1.050 kgs of ganja was recovered from this petitioner.

5. Considering the incarceration period of the petitioner i.e., from 21.06.2023 and the volume of the ganja recovered from this petitioner in



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both the cases, that material part of the investigation might have been completed by this time, this Court is inclined to grant bail to the petitioner. Accordingly, 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**, each for a like sum to the satisfaction of the **Special Court for the EC & NDPS Act cases, Salem, Salem District** 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 morning at 10.00 a.m., and 5.00 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



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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.

04.09.2023

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To

- 1.The Special Court for the EC & NDPS Act cases,
Salem, Salem District
- 2.The Inspector of Police,
Kitchipalayam Police Station,
Salem City,
Salem District.
- 3.The Central Jail,
Salem.
- 4.The Public Prosecutor,
High Court of Madras



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G.CHANDRASEKHARAN. J.

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