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Crl.O.P.No.20011 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

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

Crl.O.P.No.20011 of 2023

Rama Moorthy @ Pangi Kesubabu @ Govardhan

...Petitioner

Vs.

Union of India
Through Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai.
(R.R.No.37 of 2021)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. to enlarge the petitioner on bail in C.C.No.128 of 2022 on the file of the Court of Special Judge, II Additional Special Court Exclusive Trial of Cases under NDPS Act Cases at Chennai.

For Petitioner : Mr.K.Madhu

For Respondent : Mr.S.Rajendrakumar
Special Public Prosecutor
NCB Cases



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 14.06.2023 for the offences punishable under Section 8 (c) r/w Section 20 (b) (ii) (C), 25, 27-A, 28 and 29 of NDPS Act in C.C.No.128 of 2022 on the file of the learned Special Judge, II Additional Special Court Exclusive Trial of Cases under NDPS Act Cases at Chennai, seeks bail.

2.The learned counsel for the petitioner submitted that petitioner is shown as A4 in R.R.No.37 of 2021(in NCB F.No.48/1/14/2021-NCB/MDS) on the file of respondent. Petitioner is an innocent and he is falsely implicated in this case on the basis of the confessional statement of co-accused. He has no role in connection with the procurement and transportation of ganja. He is in judicial custody from 14.06.2023 for no reasons. Therefore, this petition is filed seeking bail.

3.In response, the learned Special Public Prosecutor submitted



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that respondent seized 642.100 kg of ganja kept in an Eicher truck bearing registration number TN-57-W-0591 on 04/05.12.2021 at Karanodai toll plaza. Accused Kubendran, Balakrishnan and Ramu were arrested in connection with the seizure of ganja.

4.He further submitted that petitioner is an habitual offender. It is seen from the confessional statement of co-accused Kubendran that petitioner was involved in cultivation and sale of ganja. Petitioner was arrested in connection with Cr.No.37 of 2022 registered for the offences under Section 8 (c) r/w Section 20 (b) (ii) (C), 25 of NDPS Act, for possessing 112 kg of ganja on 20.09.2022 and remanded at Vishakapatnam Jail. He was arrested by Rajmundry Police in Cr.No.211 of 2021 of Kirlampadi Police Station for the offences under Section 8 (c) r/w Section 20 (b) (ii) (C), 25 of NDPS Act. On 01.02.2023, petitioner was in Central Prison, Rajamahendravaram (Rajamundry).

5.Considered the rival submissions and perused the records.



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6.It is seen from the submissions of learned counsel appearing for parties especially petitioner, that petitioner is implicated as accused in this case mainly on the basis of confessional statement of co-accused Kubendran. It is also clear from the details given above that he was in judicial custody on the date of the alleged confession made by the accused Kubendran. Almost all the accused in this case had been granted bail. No recovery was made from the petitioner. Petitioner is in judicial custody from 14.06.2023. In the said circumstances, this Court is inclined to grant bail to the petitioner with conditions, for the reason that rigor of Section 37 of NDPS Act, is not applicable to this case.

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 **Court of Special Judge, II Additional Special Court Exclusive Trial of Cases under NDPS Act Cases at Chennai**, and on further conditions that :-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the



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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 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 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.

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To

- 1.The Court of Special Judge,
II Additional Special Court Exclusive Trial of Cases
under NDPS Act Cases at Chennai.
- 2.Puzhal Prison,
Chennai.
- 3.Union of India
Through Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai.
- 4.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN. J.

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