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CrI.OP.No.20255 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :15.09.2023

CORAM

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

CrI.OP.No.20255 of 2023

Kavaskhan

..Petitioner

Vs.

State Rep by its,
The Inspector of Police,
C-4, Rathinapuri Police Station,
Coimbatore District.
Crime No.416 of 2022.

...Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in connection with Crime No.416 of 2022 on the file of the Respondent Police pending investigation.

For Petitioner : Mr.N.Arun Kumar
For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 23.02.2023 for the offence punishable under Sections 272, 273, 328 IPC and Sections 8 (c) r/w 20 (b) (ii) (C) & 25 of Narcotic Drugs & Psychotropic Substances Act, 1985, in Crime No.416 of 2022, on the file



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of the respondent police seeks bail.

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2.The learned counsel for the petitioner submitted that, petitioner is A10 in this case. He is implicated as a prospective buyer of Ganja from the accused from whom Ganja had been recovered. Petitioner is in judicial custody from 23.02.2023. He further submitted that the other accused had been released on bail in Crl.O.P.No.176 of 2023, dated 23.01.2023, Crl.O.P.No.628 of 2023, dated 25.01.2023, Crl.O.P.No.2940 of 2023, dated 14.02.2023, Crl.O.P.No.2968 of 2023, dated 15.02.2023, Crl.O.P.No.8786 of 2023, dated 27.04.2023, Crl.O.P.No.14171 of 2023 dated 11.07.2023. Thus, he seeks bail for the petitioner.

3. In response, learned Additional Public Prosecutor submitted that petitioner has been implicated in this case for the reason that he is the prospective buyer of Ganja from the persons from whom Ganja was recovered. There is no recovery from the petitioner. Petitioner is implicated in this case on the basis of the confession statement of the co-accused. However, it is submitted that petitioner has eight previous cases pending against him and two cases are similar in nature, registered under



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NDPS Act.

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4. Considering the allegations against the petitioner that the petitioner is a prospective buyer of Ganja and he was implicated only on the basis of the confession statement of the co-accused and also the fact that there was no recovery of contraband from him; rather no incriminating material is available against him and having regard to the fact that other accused were granted bail, that petitioner is in judicial custody from 23.02.2023 and that material part of investigation might have been completed by this time, this Court is inclined to grant bail to the petitioner. The reason is that there is ground for believing that he is not guilty of such offence and this fact leads to the presumption that he is not likely to commit any offence while on bail.

5. Accordingly, the 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 Court -II, Coimbatore** and on further conditions that :-



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[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 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. Judicial Magistrate Court -II, Coimbatore.

2. The Inspector of Police,
Rathinapuri Police Station,
Coimbatore District.
Crime No.416 of 2022.

3. Central Prison,
Coimbatore.

4. The Public Prosecutor,
High Court of Madras



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G.CHANDRASEKHARAN. J.

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