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Crl.O.P.No.21921 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2023

CORAM

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

Crl.O.P.No.21921 of 2023

1.Karthikraja
2.Manoj Kumar

...Petitioners

Vs.

State Rep. by
Inspector of Police,
Thudialur Police Station,
Coimbatore.
(Crime No.527/2023)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. to enlarge the petitioners on bail pending investigation in Crime No.527 of 2023 on the file of the respondent police.

For Petitioner : Mr.T. Balaji

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor

ORDER

The petitioners, who were arrested and remanded to judicial custody on 11.08.2023 for the offences punishable under Sections 8(c)



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r/w 20(b)(ii)(B) of NDPS Act in Crime No.527 of 2023 on the file of the respondent police, seek bail.

2.It is the submission of learned counsel for the petitioners that since there is a previous case registered against the petitioners under NDPS Act, the respondent have again implicated the petitioners falsely in this case in Crime No.527 of 2023 for the offences under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act. They are in judicial custody from 11.08.2023. Thus, he seeks bail.

3. In response, learned Additional Public Prosecutor submitted that on 11.08.2023, based on secret information received by the *de-facto* complainant, *de-facto* complainant along with police party mounted surveillance near Idaiyarpalayam Anna Nagar check post. At about 13.30 hrs, they found 1) Karthikraja, 2) Manojkumar and 3)Siva in a suspicious circumstances. On informing them about the information received, a search was conducted. During the search, accused Karthikraja produced a white colour sack. On further search, it was found that the sack contained 4 Kgs of ganja. Ganja was seized and the accused were arrested and the case came to be registered. He further



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submitted that petitioners are having similar previous case registered against them. The previous case details are as follows.

<i>Accused Name</i>	<i>Crime No. & Police Station</i>	<i>Offence</i>
Karthikraja/A1	224/2023 Sulur Police Station	8(c) r/w 20(b)(ii)(B) & 25 of NDPS Act
Manojkumar/A2	229/2023 Sulur Police Station	8(c) r/w 20(b)(ii)(B) of NDPS Act

4. Considered the rival submission and perused the records.

5. From the entire allegations it is seen that the recovery of ganja was made from Karthikraja/A1. In the said circumstances and also having record of the fact that Karthikraja has a previous case of similar in nature, this Court is not inclined to grant bail to the 1st petitioner Karthikraja.

6. However, considering the fact that there is no recovery from the 2nd petitioner and he is in judicial custody from 11.08.2023, this Court is inclined to grant bail to the 2nd petitioner Manoj Kumar.

7. In these circumstances, this Criminal original petition is allowed partly. In respect of the 2nd petitioner, this petition is allowed and in respect of the 1st petitioner, this petition is dismissed.



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8. Accordingly, the 2nd 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-1 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 2nd petitioner without prejudice to his defence shall deposit a non-refundable sum of **Rs.10,000/-**, by way of Demand Draft to the Chief Minister's Public Relief Fund, Finance (CMPRF) Department, Government of Tamil Nadu, Secretariat, Chennai 600 009, Tamil Nadu, India, Indian Overseas Bank, Secretariat Branch, Chennai 600 009, S.B.Account No.11720 10000 00070, IFS Code IOBA0001172, CMPRF PAN: AAAGC0038F and that the receipt of such payment shall be produced before the concerned Magistrate at the time of executing the bond; It is made clear that merely, because the petitioner deposits the said amount, it would not amount to admission of his guilt. Therefore, it is open



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to the trial Court to deal with the case independently.

[c] the 2nd petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.

[d] the 2nd petitioner shall not abscond either during investigation or trial.

[e] the 2nd petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the 2nd petitioner in accordance with law as if the conditions have been imposed and the 2nd 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].

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

27.09.2023

mpl



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G.CHANDRASEKHARAN, J.
mpl

To

- 1.The Judicial Magistrate -I
Coimbatore.
- 2.Central Prison, Coimbatore.
- 3.The Inspector of Police,
Thudialur Police Station,
Coimbatore.
- 4.The Public Prosecutor,
High Court of Madras.

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