



Crl.O.P.No.22129 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2023

CORAM

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

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Kasi Durai Thalaivanar @ Karthick

...Petitioner

Vs.

State Rep. By Inspector of Police
Prohibition and Exercise Wing,
Poonamallee, Avadi-City.
(Crime No.640/2022)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. to enlarge the petitioner on bail in connection with the C.C.No.496 of 2023 on the file of Principal Special Judge for EC/NDPS Act Cases Chennai District.

For Petitioner : Mr.R.Raghul

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 05.01.2023 for the offences punishable under Sections 8(c),



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20(b)(ii)(c) and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 in C.C.No.496 of 2023 on the file of Principal Special Judge for EC/NDPS Act Cases Chennai District in Crime No.640 of 2022 on the file of the respondent police, seeks bail.

2.It is the submission of learned counsel for the petitioner that petitioner is falsely implicated in this case in Crime No.640 of 2022 registered for the offences under Sections 8(c), 20(b)(ii)(c) and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985. There was no recovery of any contraband from the petitioner. Petitioner is implicated in this case on the basis of the confession statement of the co-accused. Petitioner was produced under PT Warrant when the petitioner was in custody in connection with Crime No.361 of 2022 on the file of the Puliankudi Police Station. Petitioner is in judicial custody from 05.01.2023. Thus, he seeks bail.

3. In response, learned Additional Public Prosecutor submitted that on 29.11.2022, the *de-facto* complainant on the secret information received, mounted surveillance near Poonamallee to Bangalore By-pass road. At about 7.30 a.m., they found two persons, one with red colour



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shoulder bag and another with brown colour travel bag in suspicious circumstances. On seeing the police they tried to escape. The police apprehended them and came to know them as 1) Vasantha Kumar and 2) Mailarasan. After informing them about the secret information and following necessary procedures, a search was conducted. From the search of the shoulder bag possessed by Vasantha kumar, they found 14 Kgs of ganja. Then from the travelling bag of Mailarasan, they found 16 Kgs of ganja. Necessary samples were taken. The accused were arrested and the case was registered. He further submitted that now from the confessional statement of A1 & A2, this petitioner is implicated as an accused.

4. The allegation against this petitioner is that he is the one who had financed the procurement of ganja by A1 & A2 from Andhra Pradesh. He further submitted that petitioner is having two similar cases pending against him. The details are as follows.

<i>Crime No. and Police Station</i>	<i>Offences</i>
3/2023 Puliankudi Police Station	8(c) r/w 20(b)(ii)(B) of NDPS Act, 294(b), 332, 307, 506(2) of IPC
361/2022 Puliankudi Police Station	8(c) r/w 20(b)(ii)(B) of NDPS Act

5. In reply, the learned counsel for the petitioner submitted that



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A1 & A2 have been granted mandatory bail.

6. Considered the rival submissions and perused the records.

7. From the materials respondent produced, it is seen that ganja had been recovered from A1 & A2. This petitioner is implicated in this case only on the basis of the confessional statement of the co-accused on the allegation that he financed the procurement of the ganja by A1 & A2. Except the confessional statement of co-accused, respondent police have not collected any further incriminating material with regard to financing for procurement of ganja. A1 & A2 have been granted mandatory bail. The petitioner is in judicial custody from 05.01.2023.

6. In the said circumstances, this Court is inclined to grant bail to the petitioner and 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-II, Poonamallee**, 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



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Bank pass Book to ensure their identity.

[b] the 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 to the trial Court to deal with the case independently.

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

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

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



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mpl

[f] 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].

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

27.09.2023

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To

- 1.The Judicial Magistrate-II,
Poonamallee.
- 2.Palayamkottai Central Prison – Tirunelveli.
- 3.The Inspector of Police
Prohibition and Exercise Wing,
Poonamallee, Avadi-City.
- 4.The Public Prosecutor,
High Court of Madras.

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