

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM

THE HON'BLE MR. JUSTICE **P.DHANABAL**

Crl.O.P.No.27079 of 2024

Andisamy

... Petitioner

Vs.

State represented by,
The Deputy Superintendent of Police,
NIB CID – Salem,
Salem District.
(Crime No. 19 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, pleaded to enlarge the petitioner on bail, in Crime No.19 of 2022 on the file of the respondent Police.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mr.S.Balaji
Government Advocate (Crl.Side)

ORDER

The Petitioner, who was arrested and remanded to judicial custody on 05.12.2022, for the alleged offence punishable under Section 8(c) r/w

20(b)(ii)(C), 25, 29(1) of NDPS Act, in Crime No.19 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 09.04.2022, at about 18.00 hours, when the respondent police received secret information about the illegal sale of ganja, they found the petitioner along with other accused is in possession of 100 kgs of ganja and the same was seized by the respondent police. Hence, the complaint.

3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He has not committed any offence as alleged in the FIR. He further submits that based on the confession of the arrested accused, this petitioner was arrayed as an accused in this case and no contraband was recovered from this petitioner. He further submits that the co-accused was also released on bail. He further submits that the petitioner was arrested and is in judicial custody from 05.12.2022 and is ready to abide by any conditions that may be imposed by this Court. Hence, he prayed bail for the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that there are 5 accused in this case and the petitioner herein is arrayed as A5. He further submits that when the respondent police received secret information about the illegal sale of ganja, they found the petitioner along with other accused is in possession of 100 kgs of ganja, which is a commercial quantity. He further submits that based on the confession of the arrested accused, it reveals that as per the instructions of A2 to A5, they transported 100 kgs of ganja for illegally through Tata Indigo car bearing Reg.No.TN-22-AY-0898 for their personal gain. He further submits that A2 is the wife of A5. He further submits that the petitioner has four previous cases pending against him, investigation was completed and charge sheet was also filed. Hence, he opposed to grant bail to the petitioner.

5. Heard both sides and perused the materials available on record including the First Information Report.

6. Considering the representation made by both side counsel, no contraband was recovered from this petitioner, considering that the petitioner was arrayed as accused only based on the confession statement of co-

accused, co-accused was also released on bail, considering the period of incarceration undergone by the petitioner from 05.12.2022, though the petitioner has four previous cases and all are not similar kind of offence, in all the cases, he has been released on bail, investigation was completed and the charge sheet was also filed and now the case is posted for examination of witnesses, and also considering all others factors, I am inclined to grant bail to the petitioner, subject to certain conditions.

7.Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Additional District Judge & Presiding Officer, Special Court under EC & NDPS Act Cases, Salem (FAC), and on further conditions that:-

[a] the petitioner shall report before the concerned NDPS Court, Salem on all working days at 10.30 a.m., until further orders.

[b] the Petitioner shall not commit any offences of similar to the offence of which he is accused, or suspected, or of the commission of which he is suspected;

[c] the Petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

[d] the Petitioner shall not abscond either during investigation or trial;

[e] On breach of any of the aforesaid conditions, the learned Judicial 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]; and

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 B.N.S.

20.11.2024

drl

P.DHANABAL, J.

drl

To

- 1.The Additional District Judge/
Presiding Officer, Special Court for EC & NDPS Act Cases,
Salem.
- 2.The Deputy Superintendent of Police,
NIB CID – Salem,
Salem District.
- 3.The Superintendent,
Central Prison, Salem.
- 4.The Public Prosecutor,
High Court of Madras.

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