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CrI.O.P.No.29008 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.29008 of 2024

Syed Mushtaq Basha

... Petitioner

Vs.

The State Represented by
its Inspector of Police
J-3 Guindy Police Station
Chennai 600032

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS to
enlarge the petitioner on bail in the Cr.No.369 of 2024 on the file of the
Respondent.

For Petitioner : Mr.Santhosh.P

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (CrI.Side)

O R D E R

This Criminal Original Petition has been filed by the petitioner,
who was arrested and remanded to judicial custody on 19.10.2024, seeking



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bail in Crime No.369 of 2024 registered for the offences punishable under Sections 8(C) r/w. 20(b)(ii)(B) and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985.

2.The case of the prosecution is that the petitioner was found in possession of 1.400 kgs of ganja. Hence the case.

3.Learned Counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case only for statistical purpose. Hence, he prayed for grant of bail to the petitioner stating that the petitioner is ready to abide by any stringent conditions that may be imposed by this Court.

4.Learned Government Advocate (Crl. Side) appearing for the respondent police while opposing for grant of bail to the petitioner submitted that the petitioner was found in possession of 1.400 kgs of ganja and four previous cases are pending against the petitioner, in which, two under NDPS Act and two under the IPC.



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5.At this juncture, the learned counsel for the petitioner submitted that the petitioner, without prejudice to his defense and contention, is ready and willing to deposit an amount of Rs.5,000/- as non-refundable deposit to any welfare scheme of the Government or to any shelter home. Hence, he prayed for grant of bail to the petitioner.

6.Heard the learned Counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) for the respondent Police and perused the materials available on record including the counter filed by the respondent.

7.On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees five thousand only) as non refundable deposit to "**The Director, Institute of Mental Health, Kilpauk, Chennai**", without prejudice to his rights and contentions before the trial Court.

8.Merely, because the petitioner has deposited 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.



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9. Taking into consideration the facts and the submissions made by the learned counsel appearing for the parties, taking note of the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is ordered to be released on bail on condition to make a non-refundable deposit of **Rs.5,000/- (Rupees five thousand only)** to "The Director, Institute of Mental Health, Kilpauk, Chennai", without prejudice to his rights and contentions before the trial Court, on such deposit and production of proof, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the learned IX Metropolitan Magistrate, Saidapet 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 petitioner shall appear before the respondent police daily at 06.30 pm., until further



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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 abscond, a fresh FIR can be registered under Section 269 of B.N.S.

20.11.2024

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To

- 1.The IX Metropolitan Magistrate, Saidapet
- 2.The Superintendent
Central Prison, Puzhal
- 3.The Inspector of Police
J-3 Guindy Police Station
Chennai 600032
- 4.The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.
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