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CrI.O.P.No. 28703 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.02.2024

PRONOUNCED ON : 13.02.2024

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

CrI.O.P.No. 28703 of 2023

S.Sekar

... Petitioner/Accused No.2

Vs.

State rep. by through
The Inspector of Police
PEW Dharapuram Police Station
Tiruppur District.
In Crime No. 499 of 2023.

... Respondent/Complainant

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in C.C.No. 73 of 2023 on the file of
Special Court for Essential Commodities Act cases, Coimbatore, in Crime
No. 499 of 2023 on the file of the respondent, PEW Dharapuram Police
Station, Tiruppur District.

For Petitioner : Mr. P.Kalimuthu

For Respondent : Mr.L.Baskaran



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Government Advocate (Crl.Side)

ORDER

The petitioner/A2, who was arrested and remanded to judicial custody on 23.04.2023 registered for the offences under Sections 8(c) 20(b)(ii)(C) and 25 of NDPS Act, in Crime No. 499 of 2023, seeks bail.

2. It is the case of the prosecution that the petitioner and his son/A1 were having the habit of going over to Andhra Pradesh to procure Ganja in their own lorry and store it in their house and later, sell it in retail in surrounding places. The respondent had secured A1 when he was travelling in a Tata Indigo Car along with 45 kgs of Ganja. He had given a confession that Ganja is also stored in his house. The petitioner was in the house and from the house, in the presence of the petitioner, 6 kgs of Ganja had been seized.

3. The learned counsel for the petitioner submitted that the petitioner is falsely implicated in this case alleging that he was found in possession of 6 kgs of Ganja and even assuming that the petitioner was in possession of Ganja is true, still he can be charged only for possessing



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intermediate quantity and not commercial quantity of Ganja. Petitioner is in judicial custody from 23.04.2023.

4. The learned counsel for the petitioner stated that the petitioner is innocent and that it is only A-1 who was procuring Ganja for sale. But unfortunately, the Ganja has been seized from the house where the petitioner is residing. Moreover, the source of the Ganja will have to be determined.

5. In response, learned Additional Public Prosecutor submitted that the defacto complainant on the basis of secret information mounted surveillance near Eragampatti Check post, at about 13.00 hours, on 17.04.2023, police party found a car bearing No. TN 25 K 7634 near Otanchatiram. The car was stopped and the driver tried to escape. However, Police apprehended him and on enquiry, he told his name as Tamilselvan, S/o. Sekar. During course of enquiry, he informed that his father Sekar and he had procured Ganja and transported in a lorry bearing No. TN 52 D 0688 and stored it. From the Ganja stored by his father in his house, he had taken Ganja for supply to one Ranjith of Dindugal and his friends of Palani. Ganja was kept in the dicky of the car bearing No. TN 25 K 7634.



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6. After following necessary procedure, a search was conducted in the car and it was found that there were 22 big and one small packets in the dickey. The police found each packets weighed 2 kg and one packet weighed 1.100 kg. Totally there was 45.10 kg of Ganja seized. 6 kgs ganja was recovered from the petitioner.

7. In reply, the learned counsel for the petitioner submitted that only 6 kgs of Ganja was said to have been recovered from the petitioner. It is only an intermediate quantity. Thus, he prayed for grant of bail.

8. To verify the facts, the Court had also perused the case diary relating to FIR in Cr.No. 499 of 2023. The records reveal, recovery of 45.100 kgs of Ganja from the vehicle bearing Registration No. TN 25 K 7634, TATA Indigo car, from Tamil Selvan, the son of this petitioner. The records also reveal that the said 45.100 kgs of Ganja was taken from the house of this petitioner to be sold. This effectively means that this petitioner had actually stored 51.100 kgs of Ganja and the remainder 6 kgs had been



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recovered from the house of this petitioner. Therefore, it is not correct on the part of the petitioner to contend that he was only in possession of intermediate quantity of Ganja, that is, 6 kgs. The petition was in conscious possession of the entire Ganja seized, namely, 51.100 kgs. This is a case where commercial quantity of Ganja was procured, transported and possessed for distribution for the purpose of sale.

9. This Petition is the fourth application seeking bail. Taking into consideration the huge quantity of Ganja involved which is commercial quantity, I am not inclined to grant bail to the petitioner. This Petition stands dismissed.

13.02.2024

vsg

To

1. The Special Court for Essential Commodities Act cases, Coimbatore.
2. The Inspector of Police
PEW Dharapuram Police Station
Tiruppur District.
3. The Central Prison, Cuddalore.
4. The Public Prosecutor,
High Court of Madras.



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C.V.KARTHIKEYAN, J.

vsg

Pre Delivery Order made in

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