

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.06.2020

PRONOUNCED ON : 23.06.2020

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Cr1.O.P.No.7731of 2020

Sreejith

... Petitioner

-vs-

R.Vincent

... Respondent

S/o Raju

Deputy Superintendent of Police,

NIB CID, Coimbatore.

PRAYER:- Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the Petitioner on bail in Crime No.250 of 2020 pending investigation on the file of the Respondent Police.

For Petitioner : Mr.I.Syed Sibghatulla

For Respondent : Mr.C.Iyyappa Raj

Additional Public Prosecutor

O R D E R

The case of the prosecution is that the Deputy Superintendent of Police, NIB CID, Coimbatore received a secret information that (A1) (A2) and (A3) were involved in transportation of LSD kind of intoxicating tablets. The confidential informant informed the Police, NIB CID to visit near Hindustan Bakery, Nava India, Sowripalayam to identify those miscreants. In this connection, the Inspector of Police, NIB CID recorded the said information and obtained written direction from him and around 14.30 hours apprehended the accused from the place stated above. The informer also accompanied them. The informer identified the accused persons and the respondent rounded up the petitioner/A2 and the other accused persons. At that time, A3 ran away from the scene of occurrence. The petitioner as well as the other accused refused to appear before the Gazette Officer or the learned Magistrate for physical search and admitted to conduct search at the place of raid. The consent of the petitioner and Deepak was recorded by the Police separately and the consent of the petitioner was recorded at 16.30 hrs and the same was attested by Thiruvallur Ravichandran SSI and HC 2415 of NIV, Coimbatore unit. The Inspector of Police also attested the said consent. While checking, the accused Deepak was found in

possession of a polythene cover containing 34 big and small tablets MDMA (Methylenedioxy methamphetamine), a kind of intoxicating tablets (drugs). All these tablets were found weighing 10.200 grams. The entire drugs (tablets) were packed in the same polythene cover properly and sealed by NIB CID and recovered under a cover of mahazer duly attested by the Police witnesses. The cover sealed is marked as "A". Whiles, the petitioner was found in possession of a polythene cover LSD (Lysergic Acid Diethylamide) and strips containing 20 tablets, kind of intoxicating tablets. The same were recovered under a sealed cover by the Inspector of Police sealed properly. The cover was marked as "B" and recovered under a cover of mahazer duly attested by same police witnesses. During the course of recording, the confession statements of the petitioner and another namely Deepak disclosed that those tablets are purchased from one Akshay, Palakkad, Kerala, the petitioner and his associate Deepak were remanded to Judicial custody.

2.The contention of the learned counsel for the petitioner is that he is an innocent person and he has not committed any offence as alleged by the prosecution. On the day of occurrence, the respondent enquired the petitioner who was standing alone and since the petitioner was not well conversant in Tamil and the reply given was in doubtful manner, the respondent police arrested him and thereafter, the petitioner was implicated in this case as A2. Further, the petitioner is a final year student studying B.S.c., E.C.S. in Hindustan College of Arts & Science, Coimbatore. The petitioner further submitted that he has no bad antecedent and he is ready to comply with any condition and cooperate with the investigation. Hence prayed for Bail.

3.The learned Additional Public Prosecutor submitted that based on the secret information received from the informant, the respondent rounded up the petitioner and his associate and arrested them. This petitioner as well as the other accused A1 was found in possession of MDMA & LSD tablets. Before proceeding to the scene of occurrence, the respondent had followed proper procedure and obtained the permission and also informed the authority. The learned counsel would vehemently contend that the provisions under NDPS Act have been strictly followed. From the 2nd accused drugs were seized and thereafter the accused was produced before Court and seized tablets were sent for chemical analysis through the Court. The Report is yet to be received. Further A3 & A4 in this case are absconding. The learned counsel further submitted that the petitioner's contention that he is a student is not denied. As a college student, he along with his associates used drugs (tablets) and the drugs are not only for self consumption, but they were also selling the same. Since the drugs seized from the petitioner were of commercial quantity, the petitioner has to satisfy the conditions as per Section 37. He would submit that there are no reasonable grounds for believing that the petitioner has not committed any such offence. The learned Additional Public Prosecutor further relied upon the Judgment of the Hon'ble Apex Court in the case of State of Kerala

Vs Rajesh in Criminal Appeal Nos.154157 of 2020 wherein, it is stated that the "reasonable grounds" means something more than prima facie grounds. The reasonable belief contemplated in the provision requires existence of unique factor to show that the petitioner is not guilty of the alleged offence. In this case, the petitioner has only stated that he is a college student. Further, the petitioner, earlier filed Crl.O.P.No.5565 of 2020 and the same was dismissed by order dated 23.03.2020. Thereafter, there is no change in circumstances and therefore, strongly opposed the bail application.

4. After considering the rival submission and perusal of the materials, it is seen that the petitioner is a college final year student studying B.S.c., E.C.S. in Hindustan College of Arts & Science, Coimbatore. The petitioner has also produced the Identity Card and Semester Mark Sheets as proof. The petitioner a final year student of the college is not denied by the respondent. The respondent has followed the legal provisions before proceeding to the scene of occurrence and thereafter, in the scene of occurrence, tablets were seized from the accused, the procedures have been followed. Though the petitioner alleges that Section 50 of the Act was not followed, it not pointed out as to how it has been violated. The seizure of tablets from the petition is of commercial quantity. Further, in this case two more accused are absconding and they have to be apprehended. The Chemical Analysis report is yet to be received. On the facts and circumstances, this Court is not inclined to grant bail to the petitioner for the present. In view of the same, the Criminal Original Petition is dismissed.

-sd/-

23/06/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

सत्यमेव जयते

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE ADDITIONAL PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
NBCID, COIMBATORE

CC to I.SYED SIBGHATULLA Advocate on payment of necessary charges

CRL OP.7731/2020

Date :23/06/2020