



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2022

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

CRL.O.P.No.164 of 2022

Sathish @ Kulla @ Sathish Kumar ... Petitioner

Versus

The State represented by
The Inspector of Police,
P-6, Kodungayur Police Station,
Chennai.

(Crime No.3356 of 2021) ... Respondent

Prayer:- Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure, to enlarge the petitioner on bail in the event of his arrest in Crime No.3356 of 2021 pending on the file of P6, Kodungayur Police Station, Chennai.

For Petitioner : Mr.I.Abdul Basith

For Respondent : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences under Section 22(b) of Narcotic Drugs & Psychotropic Substances Act, 1985 in Crime No.3356 of 2021, seeks anticipatory bail.

2. The case of the prosecution is that on receipt of secret information of selling the psychotropic substance, the defacto complainant along with other police officials rushed the spot and apprehend the A1 and recovered a plastic bag, which contained 10 strips of NITRAVET - 10 total 150 tablets, where each tablet weights 500 milligrams. Further, the said A1 has informed that he received the alleged tablets from the petitioner for Rs.700/- for each strip (15 tablets) and sold the same for Rs.900/- each strip to hsi costumer. Hence, the complaint.



3. The learned counsel appearing for the petitioner submitted that the petitioner have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He further submitted that the petitioner is a B.Pharm Graduate and employed as Territory Manager at Chennai in Critica Division for Indiabulls Pharmaceuticals Limited for monthly salary. Hence, he prays for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner is working in the medical field and as per the confession statement of A1 the petitioner was implicated in this case, admittedly he was working as a Medical representative and sold the NITRAVET - 10 strips which was treating Insomnia and the said tablet was prohibited to sell without a Doctor's prescription and no previous case pending against the petitioner. However, he vehemently opposed to grant anticipatory bail to the petitioner.

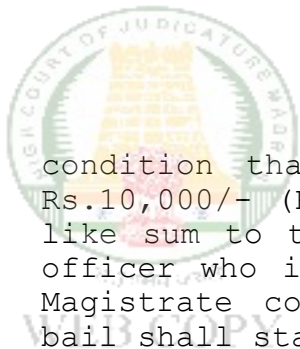
5. In this case, the question is whether the quantity attracts the rigors of Section 37 of the NDPS Act; when the quantity is less than commercial, as admittedly so in this present case, the rigors of Section 37 of the NDPS Act will not attract and factors become similar to bail petitions under regular statutes.

6. Considering the above facts and the submission made by the learned counsel for the petitioner, this Court is of the opinion that the petitioner shall be directed to make a non refundable deposit of Rs.10,000/- (Rupees Ten Thousand Only), to the credit of the Advocate Clerks Association, Chennai, without prejudice to his rights and contentions. The amount so deposited shall be utilised by the Association for the welfare of the Advocate clerks.

7. It is made clear that the deposit of the amount by the petitioner to the said Association would not amount to admission of guilt. The trial Court shall deal with the case independently on merits without reference to the amount deposited at the stage of anticipatory bail.

8. Further, considering the fact that co-accused has been released on bail and also investigation is completed and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned X Metropolitan Magistrate Court, Egmore, Chennai, on



condition that the petitioner shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition 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 report before the respondent police on every Monday, Wednesday and Saturday at 10.30 a.m., until further orders;

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner shall not abscond 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]; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

27/01/2022

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

TRUE COPY

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

TO

1 THE X METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]



3 THE INSEPCTOR OF POLICE,
P-6, KODUNGAYUR POLICE STATION,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE ADVOCATE CLERK ASSOCIATION,
CHENNAI.

+1CC to M/S.I.ABDUL BASITH Advocate on payment of necessary
charges SR.No.1352

CRL OP.164/2022

Date :27/01/2022

CSK 03/02/2022