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Crl.OP.No.21006 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2022

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.OP.No.21006 of 2022

Prithivi

..Petitioner

Vs.

The State represented by
The Inspector of Police,
B-3 Kadambathur Police Station,
Thiruvallur District.

..Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.76 of 2022, on the file of Inspector of Police, B-3 Kadambathur Police Station, Thiruvallur District.

For Petitioner : Mr.B.Ganesha Moorthy

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

The petitioner, who was arrested on 11.04.2022 and remanded to judicial custody on 12.04.2022 for the alleged offences under Sections 8(c) r/w 20(b)(ii)(B), 22(b), 22(c), 25 and 29(1) NDPS Act in Crime No.76 of 2022 on the file of the respondent police, seeks bail.



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2. The case of the prosecution is that on 11.04.2022, the petitioner was found in possession of 15 Nos. of LSD Stamps without having valid license and the same was seized. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He would further submit that the co-accused viz., A1, A5, A6, A10 and A11 were arrested and released on bail. On instructions, he would further submit that the petitioner is ready to deposit an amount of Rs.25,000/- to the **Arignar Anna Memorial Cancer Hospital & Research Institute**, Kancheepuram. Hence, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that there are totally 12 accused in which the petitioner is arrayed as A2. The petitioner was found in conscious possession of 15 Nos. of LSD Stamps without having valid license. Hence, he vehemently opposed grant of bail to the petitioner.

5. Based on the confession statement of A1 to A4, other accused persons were arrested and the contraband was seized. Based on their



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confession statement, they went to the Thiruvallur Railway station and apprehended other accused persons and seized 2.5 Kgs of Ganja from A10. He was arrested and released on bail by this Court. Therefore, the prosecution failed to prove that all the accused persons were in constructive possession of the contraband. Though the contraband seized from each of the accused, it cannot be a ground that it is a commercial quantity and it is an in-between quantity. That apart, the entire contraband after seized from the accused persons, even till today not produced before the concerned Court. Therefore, the twin condition as contemplated under Section 37 of NDPS Act would not apply if the quantity seized is not a commercial quantity for granting bail.

6. Taking into consideration the facts of the case and the submissions made by the learned counsels and also taking note of the fact that the petitioner has come forward to deposit an amount of Rs.25,000/-(Rupees Twenty Five Thousand only), by way of Demand Draft to the **Arignar Anna Memorial Cancer Hospital & Research Institute, Kancheepuram**, also taking note of the fact that the petitioner is in judicial custody from 11.04.2022, this Court is inclined to grant bail to the petitioner with certain conditions.



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7. Accordingly, the petitioner shall deposit a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** by way of Demand Draft to the **Arignar Anna Memorial Cancer Hospital & Research Institute, Kancheepuram** and on such deposit 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 blood related sureties**, each for a like sum to the satisfaction of the **Principal Special Court under EC & NDPS Act, Chennai-104** 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 deposit a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** by way of Demand Draft to the **Arignar Anna Memorial Cancer Hospital & Research Institute, Kancheepuram** and that the receipt of such payment shall be produced before the concerned Magistrate at the time of executing the bond;

[c] **the petitioner shall report before the respondent police twice daily at 10.30 a.m. and 5.30 p.m., until further orders.**

[d] the petitioner shall not abscond either during investigation or trial.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] 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



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laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

19.09.2022

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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Principal Special Court under EC & NDPS Act, Chennai-104.
- 2.The Inspector of Police,
B-3 Kadambathur Police Station,
Thiruvallur District.
- 3.Central Prison at Puzhal,
Chennai.
- 4.The Public Prosecutor,
High Court of Madras.

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