



Crl.O.P.No.20964 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2022

CORAM

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

Crl.O.P.No.20964 of 2022

Siva Suriya

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
H-5, New Washermenpet Police Station,
Chennai.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail concerned in Crime No.167 of 2022
on the file of the respondent police.

For Petitioner : Mr.N.Nishar Ahamed

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 12.03.2022 for the offences punishable under Sections 8(c) and 22(c) of NDPS Act, 1985, in Crime No.167 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 12.03.2022 at about 15.45 hours, on receipt of the secret information, the respondent police went to EMBT Play ground, the petitioner along with the other accused was found in suspicious circumstances and on search, the petitioner and the other accused were found in possession of Methamphetamine- 51 Grams and the respondent police seized the same. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner along with his friends was playing in the play ground and the respondent police had come to the place and there was a quarrel during which, the respondent police assaulted the petitioner and the petitioner sustained injuries in the leg and left forearm and thereby, in order to escape



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from the legal action, the respondent police foisted a false case as against the petitioner. He would also submit that in order to prevent the petitioner from coming out on bail, the respondent has shown as if the contraband seized from the petitioner was 51 Grams. Even in the First Information Report, the respondent has stated that out of 51 Grams of contraband seized, 10 Grams were taken as sample in two packets of 5 Grams each and the packets were marked as S1 and S2 and the remaining were marked as P1 and later the samples were sent to the Forensic Science Lab. The Forensic Sciences Department has issued a certificate dated 02.09.2022, wherein they have stated that the samples in the cover marked S1 weighed only 3.97 Grams. If that is so, the total amount of contraband would come lesser than 50 Grams and only and only in order to prevent the petitioner coming out on bail, the contraband has been shown to be 51 Grams, which is a "Commercial Quantity". He would further submit that the co-accused in this case has been granted bail by this Court in Crl.O.P.No.20623 of 2022 on 30.08.2022. Therefore, he prays for grant of bail to the petitioner.



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4. The respondent has filed a detailed counter. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that on receipt of information, the Sub Inspector of Police went to the EMBT Play ground and the accused along with another person was found in suspicious circumstances and on search from the petitioner, 51 Grams of Methamphetamine has been recovered and it is a commercial quantity. Therefore, he vehemently opposed to grant bail to the petitioner.

5. Heard both the learned counsel and perused the materials available on record.

6. As per the First Information Report, the respondent has stated that 51 Grams of contraband was recovered from the petitioner and samples were taken in two packets, each containing 5 Grams and they were marked as S1 and S2 and the packet marked S1 was sent for Medical Analysis. Learned counsel for the petitioner has produced the report of the Forensic Science Department dated 02.09.2022 in Report No.T.No.2665 Nar 189/2022. As per



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the report, it is stated that from S1, 3.97 grams off-white crystalline substance was taken for sampling and had conducted examination.

7. Taking into consideration facts and circumstances of the case, the submissions made by the learned counsel and also the report, there seems to be some discrepancy in the quantity and therefore, this Court is of the opinion that the petitioner has satisfied the conditions required under Section 37 of the NDPS Act for grant of bail and further the co-accused in this has also been granted bail by this Court on 30.08.2022, this Court is inclined to grant bail to the petitioner.

8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the **learned XV Metropolitan Magistrate, GT Court** and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the



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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 daily at 10.30 a.m., until further 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 229A IPC.

22.09.2022

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To

1. The XV Metropolitan Magistrate, GT Court.
2. The Inspector of Police,
H-5, New Washermenpet Police Station,
Chennai.
3. The Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA., J.

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