



Crl.O.P.No.21593 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2022

CORAM

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

Crl.OP.No.21593 of 2022

S.Santhoshkumar

... 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.,
pleaded to enlarge the petitioner on bail, in Crime No.283 of 2022 on the file
of the respondent police pending investigation.

For Petitioner : Mr.E.Udhayachandar

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 11.04.2022 for the offences punishable under Sections 8(c), 22(b) and 29(1) of NDPS Act, in Crime No.283 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 11.04.2022 at about 09.15 hours, the respondent police received a secret information about the illegal sales of narcotic substances i.e., Drugs. Immediately the respondent police conducted search at Annai Indhira Gandhi Nagar, near Railway Track and at that time, five persons viz., Pandurankan/A1, Gopinath Singh/A2, Santhoshkumar/A3/petitioner herein, Balasubramaniyan/A4 and Sowbar @ Sowbar Sathik/A5 were found standing there suspiciously. At that time, the respondent police conducted a check up with them and found that the accused had illegally transported the Drugs injection disposable syringe - 86, Disposable Needles - 94 and Drug tablets i.e., 1) Nitravet (10 mg) tablet 15 strips, 315 numbers which contains 179.55 grams, 2) Nitrosun (5 mg) tablet - 10 strips, 100 numbers which contains 55 grams, 3) Nitrosun (10 mg) tablet -



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6 strips, 60 numbers which contains 33.60 grams, 4) Tydol (100 mg) tablet - 10 strips, 200 numbers which contains 52 grams and 5) Spasmo Pxyzyvonplus tablet – 8 strips, 528 numbers which contains 327.36 grams. Totally, 1203 numbers which contains 647.51 grams, which come under commercial quantity. Immediately, the respondent police arrested the accused persons (A1 to A4) and recorded their confession statements and seized drugs injection disposable syringe-86, disposable needles-94 and Drugs Tablets 1203 numbers which contains 647.51 grams, 6 cell phones and one Honda Duo bike bearing registration No.TN 13 M 8553 from them under the cover of seizure mahazar in the presence of police witnesses. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is arrayed as A3 in this case and even as per the case of the prosecution, the petitioner is not connected with the larger contraband and he is only stated to be a purchaser of the 10 tablets from the main accused. He would also submit that the main accused/A1, who is stated to be the wholesale dealer of the drugs, had been granted bail. When compared to the



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main accused, the averments as against the petitioner is not so serious. He would further submit that the co-accused in this case, against whom charges are serious, have been granted bail by this Court in Crl.O.P.No.19738, 19739 and 20149 of 2022, dated 02.09.2022 and in that order, this Court has stated that the co-accused have made out a *prima facie* satisfying twin conditions of NDPS Act. Therefore, he prays for grant of bail to the petitioner.

4. The respondent had filed a detailed counter in this case. The averments in respect of the petitioner have been stated in Para Nos.6 and 7, which is extracted hereunder:

“ ..

6. *It is submitted that I have seized Tydol (100 mg) tablet-1 strip, total 10 tablets, which contains 2.6 gram, Starile Water Bottle (500 ml)-1, Drugs Injection Disposable Syringe-6 and Disposable Needles-4 from A3/petitioner herein under the cover of seizure mahazar. The drug is covered under serial No.238-ZH as Tramadol, under the Table as per Section 2 of NDPS Act, of which up to 250 grams it is Categorized as commercial quantity. In the instant case, 2.6 grams is seized which is a small quantity.*



7. It is submitted that during the course of investigation, I have examined the witnesses and recoded their statement. From the investigation, it reveals that A1 wife namely Niranjana had running a Medical shop in the name of Devaki Medical Shop at Mugapper. A1 is the employee of A4 company and A3 asked the Drugs injection to A1. Subsequently, A1 brought the drugs injection from his wife medical shop and transferred to other accused for illegal sale. A3 and A5 is friends, subsequently, A2 wife namely Vishala running a medical shop in the name of Maduri Medical Shop at Andhra. A5 asked the drugs injection from A2, so A2 took the drugs injection from his wife medical shop and handed over to other accused for illegal sale.

... ”

5. The learned Government Advocate (Crl. Side) appearing for the respondent while admitting that this Court had granted bail in respect of the main accused would submit that as far as the petitioner is concerned, he has bought 10 tablets from the main accused, other than that there is no averments as against the petitioner. However, he vehemently opposed to grant bail to the petitioner.



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

7. Taking into consideration of the facts and circumstances of the case, the submissions made by the learned counsel and that this Court while granting bail to the co-accused, had rendered a finding that they have made out a *prima facie* case satisfying the twin conditions of NDPS Act and further the averments as against the petitioner is that he is only stated to be the purchaser of 10 tablets from the main accused, 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**, (out of which, one should be a blood related surety), each for a like sum to the satisfaction of the **learned XV Metropolitan Magistrate, George Town, Chennai** and on further conditions that:



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[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 daily at 10.30 a.m., and 05.30 p.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.

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A.D.JAGADISH CHANDIRA., J.

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To

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

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