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Crl.O.P.No.22368 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.22368 of 2022

Karthick

... Petitioner

Vs.

The Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in R.R.No.30 of 2022 in NCB
F.No.48/1/08/2022 on the file of the Intelligence Officer, Narcotics Control
Bureau, Chennai Zonal Unit at Chennai.

For Petitioner : Mr.M.S.Ramesh

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 20.05.2022 for the offences punishable under Sections 9(A) r/w 21(C), 23(c), 28 and 29 of NDPS Act, in R.R.No.30 of 2022 in NCB F.No.48/1/08/2022 on the file of the respondent, seeks bail.

2. The case of the prosecution is that on receipt of the specific information, Officers of the Narcotics Control Bureau, Chennai Zonal Unit have made a search and seized 2.250 kilograms of Pseudoephedrine from a courier parcel destined to Australia at DHL Courier Service, Guindy, Chennai and in which, one Mathusudhanan, resident of Anna Salai, Chennai was found to be the consignor. During the investigation, it was found that the parcel was received by DHL Courier through one Express courier and on further enquiry, it was found that one Jayaraj, Proprietor of Express Courier Service, Kotturpuram, Chennai has forwarded the said parcel to DHL. On enquiry, he informed that one Karthik, working at Dr.Mehta's Hospital, Chennai had booked this parcel through one Shiva @ Dinesh (Petitioner in Crl.O.P.No.20656 of 2022), and that he was not aware of the contents of the parcel. He has also confirmed that the said Karthik has booked such parcel



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on a previous occasion also. Immediate follow up, resulted in the apprehension of the petitioners and the other accused. They were summoned and their statements were recorded under Section 67 of the NDPS Act, 1985 and on their voluntary statements, material objects were seized and they were arrested and remanded to judicial custody.

3. Mr.M.S.Ramesh, the learned counsel appearing for the petitioners would submit that on receipt of the summons issued by the respondent, the accused have appeared before the respondent and they were forced to give the alleged statements which were recorded under Section 67 of the NDPS Act. He would also submit that there is no recovery from the petitioner and that the alleged substance Pseudoephedrine is only a controlled substance and not Narcotics. The learned counsel for the petitioner also stated that investigation has been completed by the respondent and the complaint has been filed before the learned Principal Special Court under EC and NDPS Act and it is yet to be taken on file. He would further submit that the petitioner is prepared to abide by any stringent condition imposed by this Court. He would also state that the co-accused in this case have also been



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granted bail by this Court in Crl.O.P.No.19488 of 2022 dated 06.09.2022.

Therefore, he prays for grant of bail to the petitioner .

4. Mr.N.P.Kumar, the learned Special Public Prosecutor appearing for the respondent has filed detailed counter in this case. He would submit that the petitioner along with the other accused attempted to smuggle 2.250 kilograms of Pseudoephedrine to Australia, through courier services. During examination, it was also found that the petitioner, who is A3 is involved in such offence in previous occasion also. He would also submit that investigation has been completed and the complaint has been filed before the learned Principal Special Court under EC and NDPS Act and it is yet to be taken on file. He would further submit that the alleged substance Pseudoephedrine is a controlled substance only. However, he vehemently opposed to grant of bail to the petitioner.

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



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6. Admittedly, the alleged substance Pseudoephedrine is only a controlled substance. Further, the investigation has been completed and the complaint has been filed before the learned Principal Special Court under EC and NDPS Act and it is yet to be taken on file. Taking into consideration the facts and circumstances of the case and that there is no recovery from the petitioner and he was implicated on statements under Section 67 of the NDPS Act and also considering the period of incarceration suffered by the petitioner from 20.05.2022 and that the co accused in this case have also been granted bail by this Court in Crl.O.P.No.19488 of 2022 dated 06.09.2022, this Court is inclined to grant bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.50,000/- (Rupees Fifty thousand only)** with **two sureties** [out of which one surety should be a blood surety], each for a like sum to the satisfaction of the **learned IX Metropolitan Magistrate, Saidapet, Chennai**, 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;



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[b] the petitioner shall report before the learned Judge, Principal Special Court under EC and NDPS Act, Chennai, on all working days at 10.30 a.m. until further orders;

[c] the petitioner shall not abscond either during trial;

[d] the petitioner shall not tamper with evidence or witness during 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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1. The IX Metropolitan Magistrate, Saidapet.
2. The Principal Special Court for EC and NDPS Act,
Chennai.
3. The Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai.
4. The Superintendent,
Central Prison-II,
Puzhal.
5. The Public Prosecutor,
High Court of Madras.

A.D.JAGADISH CHANDIRA., J.

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