



Crl.O.P.No.22704 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2022

CORAM

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

Crl.O.P.No.22704 of 2022

Akbar Batsha

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
NIB CID Police Station,
Chennai.
(Crime No.36 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail, in Crime No.36 of 2022 on the file
of the respondent Police.

For Petitioner : Mr.M.Mohamed Riyaz

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 19.07.2022 for the offences punishable under Sections 8(c) r/w 22(c) and 29(1) of NDPS Act in Crime No.36 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 19.07.2022 at about 06.30 hours based on the secret information, the Inspector of Police, NIB CID, Chennai and the team went to the place of occurrence. After identified by the informant, the petitioner along with other accused were found to be in possession of 132 grams of Methamphetamine and all were arrested on the same day and confession statement also was recorded. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is arrayed as A3 in this case. Even as per the FIR, based on the information given by the informant, the respondent has got the place of occurrence. At that time, three different persons were found and in respect of A1, a search was conducted between 6.30 p.m., to 7.00 p.m, 60 grams of



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contraband was seized from A1, in respect of A2, a search was conducted between 7.30 to 8.00 p.m., 60 grams of contraband was seized from A2 and in respect of A3, a search was conducted between 8.30 to 9.00 p.m, 12 grams of contraband was seized from A3. He would submit that there is no materials to show that the petitioner has links with the other accused and as far as the recovery from the petitioner is concerned, it is not a commercial quantity. He would further submit that there will not be a bar under Section 37 of NDPS Act in respect of the petitioner and that he is in custody from 19.07.2022 and there is no previous cases pending against the petitioner. Hence, he prays for grant of bail to the petitioner.

4. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent would submit that on information, the respondent went to the place of occurrence and found three different persons. He would further submit that a search was conducted and from this petitioner, 12 grams of methamphetamine was recovered. He would fairly concede that there is no materials as of now to show that the petitioner has connection with other accused.



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

6. Taking into consideration the facts and circumstances of the case and submissions made by the learned counsel and the contraband seized from the petitioner is only 12 grams and as of now the petitioner is no way connected to other accused, this Court is inclined to grant bail to the petitioner.

7. 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 XVI Metropolitan Magistrate Court, George Town 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 respondent Police daily at 10.30 a.m and 5.30 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 XVI Metropolitan Magistrate, George Town.
- 2.The Inspector of Police,
NIB CID Police Station,
Chennai.
3. The Central Prison, Puzhal.
- 4.The Public Prosecutor, High Court of Madras.

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