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Crl.O.P.No.23582 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2022

CORAM

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

Crl.O.P.No.23582 of 2022

Mugesh

... Petitioner

Vs.

The State rep by:-
The Inspector of Police,
N.2, Kasimedu Police Station,
Chennai.
(Crime No.143/2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending investigation in Crime
No.143 of 2022, on the file of the respondent.

For Petitioner : Mr.K.Madhan

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 07.07.2022 for the offences punishable under Sections 8(c), 20(b)(ii)(A) & 22(c) of NDPS Act, in Crime No.143 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 06.07.2022 at about 20.00 hours, on receipt of a secret information and entering the same in the general diary, the Sub-Inspector of Police along with the Police team went to the Kasimedu Power Kuppam Subway, where they found that the accused were found in possession of 8 Lysergic Acid Diethylamide stamps. The respondent have seized the contraband under the cover of seizure mahazar and arrested the accused persons and a case in Crime No.143 of 2022 under Sections 8(c) r/w 20(b)(ii)(A), 22(c) of NDPS Act. Hence the case.

3. The learned counsel appearing for the petitioner would submit that the respondent had earlier registered a case in Crime No.142 of 2022



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against the petitioner and others on the complaint given by one Rajesh and the case was stated to have been committed at 13.45 hours on 06.07.2022 and the accused were arrested and they were brutally assaulted by the respondent Police in the Police Station and thereafter, the respondent have foisted a false case in Crime No.143 of 2022 as if the petitioner and other accused were found in illegal possession of 8 Lysergic Acid Diethylamide stamps and the very registration of the case will show that it is a foisted case.

4. The learned counsel would submit that even as per the First Information Report in Crime No.143 of 2022, the petitioner and other accused were stated to have been found near Kasimedu Power Kuppam Subway, which is beyond the jurisdictional limit of the respondent Police. He would further submit that the contraband was stated to be recovered from the first accused and he has also gave the confession statement with regard to the same. He would also submit that no confession statement has been recorded from the petitioner, as if the petitioner had a knowledge about the first accused being in possession of the contraband. He also stated that the petitioner has been granted with bail in connection with the Crime No.142 of



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2022 by the Court of Sessions on 04.08.2022 and the present case has been put up only to keep the petitioner in continued detention. He would further submit that it is a clear case where the petitioner has made out a *prima facie* case satisfying the requirements of Section 37 of NDPS Act for grant of bail and thereby, he prays for grant of bail to the petitioner.

5. The respondent has filed a detailed counter in this case. The learned Government Advocate (CrI.Side) appearing for the respondent would submit that the petitioner along with the other accused assaulted one Rajesh and based on which the case in Crime No.142 of 2022 has been registered for the offence under Sections 341, 294(b), 323 & 307 IPC and on the very same day, when the respondent went on search of the petitioner, they were standing in Kasimedu Power Kuppam Subway and they were arrested and the first accused was found in possession of 8 Lysergic Acid Diethylamide stamps totally weighing 130 milligrams, which is a commercial quantity. He would also submit that the petitioner was arrested based on the confession statement of the first accused. Hence, he vehemently opposed to grant bail to the petitioner.



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6. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the materials available on record including the documents in the typed set of papers furnished by the petitioner.

7. This Court finds that the petitioner has made out a *prima facie* case satisfying the requirements under Section 37 of NDPS Act and taking into consideration the facts and circumstances of the case and taking note of the fact that the contraband has not been recovered from the petitioner, 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 XVI Metropolitan Magistrate at 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];**



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

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mpl

To

1. The XVI Metropolitan Magistrate
at George Town, Chennai.
2. The Inspector of Police,
N.2, Kasimedu 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.

mpl

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