



Crl.O.P.Nos.25449, 26224, 26675 & 27369 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2022

CORAM

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

Crl.O.P.Nos.25449, 26224, 26675 & 27369 of 2022

Akash	...	Petitioner in Crl.O.P.No.25449 of 2022
Vijay Roshan Daga	...	Petitioner in Crl.O.P.No.26224 of 2022
Thomas	...	Petitioner in Crl.O.P.No.26675 of 2022
Vishal	...	Petitioner in Crl.O.P.No.27369 of 2022

Vs.

State by Inspector of Police, F – 3 – Nungambakkam Police Station, Nungambakkam, Chennai.	... Respondent in all Crl.O.P.'s
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PRAYER in all Crl.O.P.'s: Criminal Original Petition filed under Section 439 of Cr.P.C., to enlarge the petitioner on bail in Crime No.273 of 2022 on the file of the respondent pending investigation.

For Petitioner in
Crl.O.P.No.25449 of 2022: Mr.P.Sidharthan



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For Petitioner in
Crl.O.P.No.26224 of 2022: Mr.R.John Sathyan

For Petitioner in
Crl.O.P.No.26675 of 2022: Mr.Elanjchezhien.J

For Petitioner in
Crl.O.P.No.27369 of 2022: Mr.S.Sriram

For Respondent
in all Crl.O.P.'s : Mr.C.E.Pratap
Government Advocate (Crl.side)

COMMON ORDER

The petitioner in Crl.O.P.No.25449 of 2022, who was arrested and remanded to judicial custody on 17.09.2022, the petitioner in Crl.O.P.Nos.26224 & 26675 of 2022, who were arrested and remanded to judicial custody on 16.09.2022, the petitioner in Crl.O.P.No.27369 of 2022, who was arrested and remanded to judicial custody on 30.09.2022 respectively for the offences punishable under Sections 8(c) read with 20 (b)(ii)(B) of Narcotic Drugs & Psychotropic Substances Act, 1985 in Crime No.273 of 2022 on the file of the respondent Police, seek bail.



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2. The case of the prosecution as per the *de-facto* complainant Maruthu, Sub – Inspector of Police, F-3 Nungambakkam Police Station, Chennai is that on 16.09.2022, he received a secret information with regard to one Vijay Roshan Daga/A1 and Thomas/A2 that they were present near Ponnusamy Hotel at Jegannathan street, Nungambakkam with an intent to sell ganja. Based on the information, the *de-facto* complainant along with 2 other police went to the scene of occurrence and found A1 & A2 standing there and upon enquiry and after intimation, they were searched and that the contraband of 1.100 Kg of ganja was recovered from them and thereafter, confession was recorded from A1 & A2 and from them one Apple i-phone and one Redmi phone was recovered. Further allegation of the respondent is that based on the confession recorded from A1 & A2 that the other accused Viz., A3/Karthick, A4/Aakash and A5/Bhawan Kalyan had informed them that they would supply drugs to them on the next day, the respondent police waited for the other accused and they were arrested within the limits of the respondent police station and from A3/Karthick, 1.400 Kg of ganja, Ecstasy Pills 33 Nos and LSD Hallucinogens 19 stamps were recovered and from A6/Vishal, 2.100 Kgs of ganja was recovered. The accused A1/Vijay



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Roshan Daga & A2/Thomas were arrested on 16.09.2022, A3/Karthick, A4/Akash & A5/Pawan Kalyan were arrested on 17.09.2022 and A6/Vishal & A7/Britton Maya were arrested on 30.09.2022. Hence, the case.

3. Mr.R.John Sathyan, the learned Counsel appearing for the petitioner in Crl.O.P.No.26224 of 2022 would submit that the petitioner has been arrayed as A1 in this case and as per the prosecution, the petitioner was stated to be arrested near Ponnusamy Hotel in Nungambakkam along with A2/Thomas (Petitioner herein in Crl.O.P.No.26675 of 2022) and from them 1.100 Kg of ganja was jointly recovered. He would submit that the fact remains that the petitioner was lifted from his house on 16.09.2022 at 10.00 a.m., then the arrest was shown as if the petitioner was arrested along with A2 near Ponnusamy Hotel and from them the contraband namely 1.100 Kg of ganja was recovered. He would further submit that subsequently it is the claim of the respondent police that based on the confession recorded from them, the other accused were arrested subsequently, in some other place within the jurisdiction of the respondent police. Even as per the alleged confession statement recorded from the petitioners, they have stated that the other accused have assured to give contraband to them. He would further



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submit that as far as these petitioners/A1 & A2 are concerned, the contraband recovered is 1.100 Kg of ganja which is only an intermediate quantity. He would further submit that the petitioners/A1 & A2 are in custody from 16.09.2022 for the past 64 days and the petitioner/A1 is a graduate from Loyola College and he is presently doing mobile accessories business and an income tax assessee and he had no criminal record and thereby he seeks for grant of bail to the petitioner.

4. While adapting the arguments of the learned counsel for the petitioner in Crl.O.P.No.26224 of 2022, Mr.Elanjchezhien, the learned Counsel appearing for the petitioner in Crl.O.P.No.26675 of 2022 would submit that the petitioner/A2 was also lifted from his residence on 16.09.2022 around 2.00 p.m. and he was brought to Ponnusamy Hotel, Nungambakkam where he along with other accused was shown to be arrested. He would submit that the petitioner has completed B.Com and graduated from Loyola College and the petitioner's father is a Pharmacist and his mother is working in an NGO. He would submit that even as per the prosecution, the alleged recovery of 1.100 Kg of ganja is not a commercial quantity. He would submit that other than the confession recorded from the



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petitioner that the other accused have assured to give drugs to him, there is no averments against him. Hence, he seeks for grant of bail to the petitioner.

5. Mr.P.Sidharthan, the learned Counsel appearing for the petitioner in Crl.O.P.No.25449 of 2022 would submit that the petitioner is arrayed as A4 in this case. He would submit that the petitioner is roped in this case based on the confession recorded from A1 & A2. The petitioner was arrested on 17.09.2022 and absolutely there is no recovery from the petitioner. He would submit that the petitioner has completed B.C.A 3rd year at Dr.M.G.R. Educational & Research Institute and he is on look out for a job. He would further submit that the petitioner is in custody from 17.09.2022 and seeks for grant of bail to the petitioner.

6. Mr.S.Sriram, representing counsel for Mr.K.Govi Ganesan, the learned Counsel appearing for the petitioner in Crl.O.P.No.27369 of 2022 would submit that the petitioner is arrayed as A6 in this case. He would submit that the petitioner has nothing to do with the alleged offence and he is roped in this case based on the alleged confession stated to have been recorded from the A4 & A5 who were subsequently arrested. He would



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submit that even as per the prosecution, the alleged contraband stated to be recovered from the petitioner is 2.100 Kgs of Ganja which is an intermediate quantity. He would submit that other than the alleged confession recorded from the petitioner, there is no other material to connect the petitioner with other accused. He would further submit that the petitioner has discontinued his course in Hotel Management and presently working as Editor in the film industry and his father is no more and his mother is an house wife. Hence, he seeks for grant of bail to the petitioner.

7. The learned counsel for the petitioners in unison would submit that the quantity of contraband recovered from the petitioners are only minimum/intermediate quantity and as far as the petitioners are concerned rigour of Section 37 of NDPS Act will not be applicable, thereby seeks for grant of bail to the petitioners.

8. The respondent has filed individual counter in all the cases.

9. Mr.C.E.Pratap, the learned Government Advocate (Crl.side) appearing for the respondent would submit that based on the specific



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information, A1/Vijay Roshan Daga and A2/Thomas were intercepted near Ponnusamy Hotel on 16.09.2022 and from them 1.100 Kg of ganja was recovered. Later, they voluntarily confessed that other accused are known to them and they have assured to give drugs to them and based on the confession recorded from A1 & A2, the respondent police was able to arrest the other accused. He would submit that from one Karthick/A3 in this case, 1.400 Kg of ganja, Ecstasy Pills 33 Nos and LSD Hallucinogens 19 stamps were recovered, which is a commercial quantity and from Vishal/A6 2.100 Kgs of ganja was recovered. The said Karthick/A3 was arrested on 17.09.2022 and Vishal/A6 was arrested on 30.09.2022. Akash/A4 was arrested on 17.09.2022 and no contraband has been recovered from him. The commercial quantity has been recovered only from A3 and he would submit that as far as these petitioners are concerned the quantity recovered from them is an in between quantity. However, he vehemently opposed to grant bail to the petitioners.

10. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) for the respondent and perused the materials available on record. As far as the petitioners herein are concerned,



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from A1 & A2 the respondent has jointly recovered 1.100 Kg of Ganja which is an intermediate quantity, from A4 no contraband has been recovered and from A6, 2.100 Kgs of ganja has been recovered, which is an intermediate quantity. As on date, other than the confession recorded from the petitioners there is no other material. Since the recovery from A1, A2 & A6 is only an intermediate quantity and there is no recovery from A4 and further taking into consideration the facts, the rigors of Section 37 of NDPS Act will not be applicable to them.

11. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel and the period of incarceration, this Court is inclined to grant bail to the petitioners.

12. Accordingly, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of **Rs.50,000/- (Rupees Fifty thousand only)** with **two sureties (One among the sureties shall be either the father or mother of the petitioner)**, each for a like sum to the satisfaction of **Principal Special Court under EC & NDPS Act, 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 petitioners shall report before the respondent police everyday at 10.30 a.m., until further orders;

[c] the petitioners shall not abscond either during investigation or trial;

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 Principal Special Court under
EC & NDPS Act, Chennai.
- 2.The Inspector of Police,
F – 3 – Nungambakkam Police Station,
Nungambakkam, Chennai.
3. Central Prison,
Puzhal, Chennai.
- 4.Sub-Jail, Saidapet, Chennai.
- 5.The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

mpl

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