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CrI.O.P.No.28505 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2022

CORAM

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

CrI.O.P.No.28505 of 2022

Silambarasan

... Petitioner

Vs.

The State of Tamil Nadu,
Represented by,
The Inspector of Police,
H-5, New Washermenpet Police Station,
Chennai.

Crime No.532 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.532 of 2022 pending
investigation before the respondent police.

For Petitioner : Mr.M.Yasar Arafath

For Respondent : Mr.C.E.Pratap
Government Advocate (CrI.Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 20.08.2022, for the offences punishable under Sections 8(c), 22(c) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.532 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 20.08.2022, at about 15.30 hours, on receipt of a secret information about illegal sale of Narcotic substances, the Sub Inspector of Police along with his team went to the scene of occurrence, where they found the accused were in illegal possession of 16 Nos. of LSD Stamps weighs about 0.270 grams and the same was seized under the cover of seizure mahazar and arrested the accused 1 to 3, whereas, A4 and A5 were escaped and registered a case in Crime No.532 of 2022 for the offence under Sections 8(c), 22(c) of Narcotic Drugs and Psychotropic Substances Act, 1985. Hence the case.

3. The learned counsel appearing for the petitioner submitted that this is the second bail application before this Court and this Court had earlier



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dismissed the bail application filed by the petitioner in Crl.O.P.No.25355 of 2022 vide order dated 19.10.2022 stating that the petitioner has got 4 previous cases. He further submitted that the previous cases pending as against the petitioner were registered by the same respondent and only in order to curtail the activities of the petitioner, earlier on 25.04.2022, the respondent has registered a case in Crime No.311 of 2022 for the offence under Sections 294(b), 324 & 506(ii) IPC, for which, the petitioner was granted bail and thereafter, in order to keep the petitioner in further detention, another case in Crime No.349 of 2022 was registered for the offence under Sections 8(c) r/w 22(b) NDPS Act and this Court by an order dated 07.07.2022 was pleased to grant bail to the petitioner in Crl.O.P.No.15701 of 2022 and immediately, after coming out of the prison, the present case has been registered against him.

4. He further submitted that as far this case in concerned, the alleged contraband was recovered only from the first accused and the petitioner has no connection what so ever with A1 and there is also no material to show that the petitioner is aware of the possession of the contraband by A1. He also stated that after the dismissal of the earlier bail



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application of this petitioner, this Court by an order dated 01.11.2022, has been granted bail in respect of the similarly placed co-accused (A3) in this Case in Crl.O.P.No.25552 of 2022. He also stated that since there is no recovery from the petitioner and there is no material to connect the petitioner with the main accused, from whom the recovery has been made, the petitioner has satisfied the conditions required under Section 37 of NDPS Act. Hence, he prayed to grant bail to the petitioner.

5. The Respondent has filed a detailed counter.

6. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner along with other accused were found in illegal possession 16 Nos. of LSD Stamps weighing 0.270 grams. He further stated that the contraband has been recovered from the main accused(A1). He further submitted that 4 previous cases including one NDPS Act case are pending against the petitioner, hence, he opposed to grant bail to the petitioner.



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7. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record.

8. Taking into consideration the facts and circumstances of the case, the submission made by the learned counsel and taking note of the fact that no recovery has been made from the petitioner and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner.

9. 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 XV Metropolitan Magistrate, George Town, 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 stay at Tirunelveli and report before the Inspector of Police, Thalaiyuthu Police Station, everyday at 10.30.a.m., until further orders;

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[d] the petitioner shall not abscond 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 absconds, a fresh FIR can be registered under Section 229A IPC;

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To

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



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A.D.JAGADISH CHANDIRA., J.

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