



WEB COPY



CrI.OP.No.27869 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2022

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.OP.No.27869 of 2022

Kishore Kumar

...

Petitioner

Vs

The Inspector of Police,
R-2, Kodambakkam Police Station,
Chennai.

Crime No.81 of 2022

...

Respondent

PRAYER:Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.81 of 2022 on the file of the respondent Police.

For Petitioner : Mr.T.S.Sasi Kumar

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor.

ORDER

The petitioner, who was arrested and remanded to judicial custody on 17.03.2022 for the alleged offence punishable under Section 8(c) r/w.22(a), 22(c), 29(i) of NDPS Act and Section 465, 468, 472 of IPC in Crime No. 81 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 17.03.2022 at about



Crl.OP.No.27869 of 2022

9.00 hours, the respondent received a secret information that some accused persons are illegally selling the drugs nearby Chennai Trustpuram play ground. Immediately, the then Inspector of police went to the scene of occurrence along with his team and at that time, the petitioner was selling the drug tablets to drug users. On seeing police, the accused try to escape from the place of occurrence. Immediately, the police caught hold of the accused persons. During enquiry, they came to know that A6 and A7/petitioner herein were in possession of Nitravet – 150 tablets and Tydol – 100 tablets.

3. On his confession statement, A6 stated that he bought the above said contraband from A2 to A5. Subsequently, the respondent has taken samples of Nitravet – 20 tablets and Tydol – 20 tablets. The remaining contraband was seized. Based on the confession statement, the respondent police searched the houses of A2 to A5 and found Nitravet 10 mg – 4620 tablets weighing 1.2 kgs, Tydol 100 mg – 2220 tablets, Unwanted kit 10 mg – 145 tablets, Alprasafe 0.5 mg - 130 tablets. Subsequently, the respondent had taken samples of Nitravet 10mg – 20 tablets, Tydol 100mg – 20 tablets, Unwanted kit 10 mg – 20 tablets,



Crl.OP.No.27869 of 2022

Alprasafe 0.5 mg – 20 tables and the remaining contraband for a value of Rs.4,41,300/- were seized . Further the respondent police seized Bajaj Pulsar NS 200 Black Colour bearing Registration No. TN-60-AX-0653, Yamaha FZS Red Colour bearing Registration No. TN-04-AZ-5791, Yamaha FZS Blue Colour bearing Registration No. TN-12-AR-5729, ROG Laptop-1, HP ENVY Laptop-1, Apple IPAD – 1, Oppo Cell – 1, Vivo-1, Samsung-1, Realme – 1 and Voizmed Pharma Pvt Ltd seal – 2 and arrested A2 to A5.

4. On confession, A2 stated that, she along with the other accused, was running an You Tube Channel in the name of “Lifemed” and they were getting enquiries for the above referred drugs and they had sold them through online. She also stated that they started a fake Pharma Company in the name of A3 viz., Voizmed Pharma (P) Ltd and the said pharmacy seal is used for the purpose of sale and she had purchased the above said drugs through Indiamart online from A1 of Sriram Medicos, Gurgaon and selling the drug along with A2 to A4 to drug users. Based on the above confession, the respondent police registered a case in Crime No.81 of 2022 as against the accused persons.

5. The learned counsel appearing for the petitioner submitted



Crl.OP.No.27869 of 2022

that there are totally seven accused, in which, the petitioner is arrayed as

A7. Based on the information, the respondent police went to the spot and said to have apprehended A6 along with the petitioner/A7. Based on the confession of A6, they went to the house of A2 and A3 and thus the remaining accused have been apprehended. He further submitted that the quantity seized from A6 is only intermediate quantity and does not attract the offence under Section 37 of NDPS Act. As per the FIR, A7 wanted to buy the contraband from A6 and had gone to the spot, after A6 called him to come there, to receive the contraband. As per the confession of A6, the contents of the FIR as stated by A7 does not find a place in it and even the name of A7 is not mentioned by A6. After recovery of the contraband, the respondent police arrested the petitioner at 12.00 hours and went to the house of A2 and A3 and seized the contraband. Even according to the prosecution, A7 only wanted to buy the contraband for his personal use. Therefore, the petitioner is no way connected with the seizure made from the other accused. Hence, he prays bail to the petitioner.

6. The learned Additional Public Prosecutor appearing for the



Crl.OP.No.27869 of 2022

respondent submitted that as per the confession statement of A6, the petitioner is also a drug peddler. He used to purchase the drugs through A6 from A2 to A5. The first accused is the main supplier of the entire contraband. Therefore, the petitioner knows very well that A2 to A6 are the drug peddlers and they were in possession of huge quantity of drugs. Therefore, all the accused were in constructive and conscious possession of the contraband and as such the provision under Section 37 of the NDPS Act is attracted in this case. That apart, now the charge sheet has been laid and it is pending for trial in C.C.No.203 of 2022 on the file of the Principal Special Judge, NDPS Court, Chennai. Hence, he vehemently opposed to grant bail to the petitioner.

7. It is seen that there are totally seven accused, in which the petitioner is arrayed as A7. On 17.03.2022, when the respondent went to the scene of occurrence on receipt of a secret information, he had apprehended A6 along with the petitioner. On the confession of A6, A2 and A3 were apprehended and based on their confession, the entire contraband was seized and other accused persons were apprehended by the respondent. Even according to the prosecution, as ordered by A6, A7 was in possession of contraband and while handing over both were



Crl.OP.No.27869 of 2022

caught red handed. The contraband seized from A6 is only intermediate quantity and as per the provision under Section 37 of the NDPS Act is attracted.

8. That apart, on perusal of the confession statement of A6, the petitioner used to purchase the drug for his personal consumption. There is no evidence to show that the petitioner is also one of the drug peddler viz., buying and selling the drugs. Now, the respondent filed final report and the same has been taken cognizance in C.C.No. 203 of 2022 on the file of the Principal Special Judge, NDPS Court, Chennai.

9. Considering the above facts and circumstances of the case and also considering the period of incarceration by the petitioner from the date of his arrest viz.,17.03.2022, this Court is inclined to grant bail to the petitioner with certain conditions.

10. Accordingly, the petitioner shall donate a sum of Rs.50,000/- (Rupees Fifty Thousand only) to the credit of the RAY OF LIGHT FOUNDATION; A/c No : 50100078904233; IFSC code : HDFC0001864; No.10, Nageswara Road, Nungambakkam, Chennai, Tamil Nadu 600034; Ph No.8939065431 and on such donation the petitioner is ordered to be released on bail on his executing a bond for a



CrI.OP.No.27869 of 2022

sum of Rs.10,000/- (Rupees ten thousand only) with **two blood related**

sureties, each for a like sum to the satisfaction of the learned Principal

Special Judge, NDPS Act, 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.

[b] the petitioner shall donate a sum of **50,000/-** (Rupees Fifty Thousand only) to the credit of the RAY OF LIGHT FOUNDATION; A/c No : 50100078904233; IFSC code : HDFC0001864; No.10, Nageswara Road, Nungambakkam, Chennai, Tamil Nadu 600034; Ph No.8939065431.

[c] the petitioner shall report before the Principal Special Judge, NDPS Court, Chennai, on all working days at 10.30 a.m., and 05.00 p.m, until further orders.

[d] the petitioner shall not abscond either during investigation or trial.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned



Crl.OP.No.27869 of 2022

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]**.

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

17.11.2022

Lpp

To

- 1.The Principal Special Judge,
NDPS Court,
Chennai.
2. The Inspector of Police,
R-2, Kodambakkam Police Station,
Chennai.
3. Central Prison,
Puzhal-II, Chennai.
- 4.The Public Prosecutor,
High Court of Madras.

G.K.ILANTHIRAIYAN, J.



WEB COPY



CrI.OP.No.27869 of 2022

Lpp

CrI.O.P.No.27869 of 2022

17.11.2022