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Crl.O.P.No.27523 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

CORAM

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

Crl.O.P.No.27523 of 2022

Balusamy @ Palusamy

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
J-7, Velacherry Police Station,
Chennai.

Crime No.418 of 2022

... Respondent

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

For Petitioner : Mr.M.Vinoth

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 01.09.2022, for the offences punishable under Sections 8(c), 22(c), 27(a), 25, 29, 32(b) and 35 of Narcotic Drugs and Psychotropic Substances Act, 1955, in Crime No.418 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner along with other accused were found in possession of 44 Strips of Tydol Tablets (each containing 100 mg) - totally 4400 tablets along with CODISTAR- 90 bottles (each bottle containing 100 ml). Hence, the case

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case, since, the petitioner happens to be found in company of other accused. He would further submit that, even as per the prosecution, 80 strips of Tydol tablets -100 mg were stated to have recovered from the petitioner and it is not a scheduled drug. He would further submit that the petitioner is in



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custody from 01.09.2022 and he is prepared to abide by any stringent conditions that may be imposed by this Court and hence, he prays for grant of bail to the petitioner.

4. The respondent has filed a detailed counter.

5. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that, the petitioner along with other accused were found in possession of TYDOL -100mg (44 strips) which contains 4400 tablets and CODISTAR - 100ml (90 bottles) and as far as the recovery is concerned, only 80 strips of Tydol tablets (each containing 100 mg) were recovered from the petitioner. He would further submit that, there is no previous case pending against the petitioner. However, he opposed to grant bail to the petitioner.

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



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7. Taking into consideration the facts and circumstances of the case, the submission made by the learned counsel and considering the period of incarceration and also considering that the petitioner has got no previous cases and also considering that the contraband recovered from the petitioner is not a scheduled substance, 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 (one surety shall be a Father or Mother of the Petitioner)**, each for a like sum to the satisfaction of the **learned XVIII Metropolitan Magistrate at Saidapet, 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 report before the respondent police daily at 10.30.a.m., until further orders.

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



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[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;

11.11.2022

Sma

To

1. The XVIII Metropolitan Magistrate at Saidapet, Chennai
2. The Inspector of Police,
J-7, Velacherry Police Station,
Chennai.
3. Central Prison, Chennai.
4. The Public Prosecutor,
High Court of Madras.

A.D.JAGADISH CHANDIRA.,J.



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