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Crl.OP.No.28600 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2022

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

Crl.OP.No.28600 of 2022

E.Nelson Rojas @ Nelson Rogers

..Petitioner

Vs.

The State represented by
The Inspector of Police,
H-1, Old Washermenpet Police Station,
Chennai-600 021.
(Crime No:310 of 2022)

..Respondent

PRAYER:Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail pending trial in C.C.No.338 of 2022 before the file of Principal Judge, Special Court, for Exclusive Trial of Cases Under NDPS Act at Chennai.

For Petitioner : Mr.S.Apunu

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 20.04.2022 for the offences punishable under Sections 147, 148, 341, 323, 324 and 307 of IPC, in Crime No.310 of 2022 on the file of the respondent Police, seeks bail.



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2. The case of the prosecution is that on 19.04.2022, the defacto complainant namely, one Gopinath lodged a complaint alleging that the accused persons brutally attacked the defacto complainant and others. On receipt of the complaint, the respondent registered FIR in Crime No.310 of 2022 for the offences punishable under Sections 147, 148, 341, 323, 324 and 307 of IPC. Subsequently, When A1 was arrested and remanded to judicial custody, he was found in possession of drug and he also confessed that he had purchased the same from A3 and part of the drug was sold to A2. Based on which, the offences were altered into Sections 8(c) r/w 22(C) and 29(1) of NDPS Act.

3. After completion of investigation, the respondent filed a final report for the offences punishable under Sections 8(c) r/w 22(C) and 29(1) of NDPS Act and the same has been taken cognizance in C.C.No.338 of 2022 on the file of the Principal Judge, Special Court for Exclusive Trial of case under NDPS Act at Madras, as against A1 to A3 alone.

4. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and only based on the confession statement of the co-accused, he has been arrayed as an accused. Hence, he seeks for grant of



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bail to the petitioner.

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5. The learned Additional Public Prosecutor appearing for the respondent police would submit that the petitioner and other accused were found in possession of 25 MDMA Ecstasy tablets, weighing about 13.5 grams. He would further submit that this is the fourth bail petition filed by the petitioner and there is no change of circumstances after the previous dismissal orders passed by this Court. Hence, he opposed to grant bail to the petitioner.

6. Heard both sides and perused the materials available on record.

7. The petitioner is arrayed as A2. A perusal of the final report revealed that A1 had purchased 50 MDMA Ecstasy tablets from A3, in which he sold out 10 tablets to A2. After selling other tablets, he was found in possession of 25 tablets. Hence, the charge. Therefore, on the confession statement of A1, the petitioner has been implicated as an accused. Admittedly, the petitioner was not found in possession of any drug. Except the confession statement, no other materials are there to connect the petitioner along with other accused. That apart, A3 was already granted bail by this Court by an order dated 12.09.2022



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in Crl.O.P.No.21831 of 2022.

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8. Therefore, the petitioner fulfilled the twin conditions as contemplated under Section 37 of NDPS Act.

9. Taking into consideration the facts and circumstances of the case and also considering the period of incarceration undergone by the petitioner from the date of his arrest i.e, 20.04.2022, this Court is inclined to grant bail to the petitioner with certain conditions.

10. Accordingly, the petitioner shall deposit a sum of **Rs.25,000/-** (Rupees Twenty Five Thousand only) as non refundable deposit 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 deposit, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with **two blood related sureties**, each for a like sum to the satisfaction of the Principal Judge, Special Court for Exclusive Trial of case under NDPS Act at Madras and on further conditions



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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 deposit a sum of **Rs.25,000/-** (Rupees Twenty Five Thousand only) as non refundable deposit 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 Judge, Special Court for Exclusive Trial of case under NDPS Act at Madras, daily at 10.30 a.m., and 5.30 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 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.

29.11.2022

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G.K.ILANTHIRAIYAN, J.

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To

1.The Principal Judge, Special Court for Exclusive Trial of case under NDPS Act at Madras.

2. The Inspector of Police,
H-1, Old Washermenpet Police Station,
Chennai-600 021.

3. The Central Prison,
Puzhal.

4.The Public Prosecutor,
High Court of Madras.

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