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Crl.OP.No.28418 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2022

CORAM

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

Crl.OP.No.28418 of 2022

Ishwabh

... Petitioner

Vs.

State rep by

The Inspector of Police,

Kadambathur Police Station,

Thiruvallur District (crime No.76 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,

pleased to enlarge the petitioner accused on bail pending investigation in

Crime No.76 of 2022 on the file of the respondent police.

For Petitioner : Mr.M.J.Nissar Ahmed

For Respondent : Mr.C.E.Pratap,
Government Advocate (crl.side),

ORDER



Crl.OP.No.28418 of 2022

The petitioner, who was arrested and remanded to judicial custody on 12.04.2022 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(B), 22(b), 22(c), 25 and 29(1) of NDPS Act, 1985, in Crime No.76 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 11.04.2022, upon information received by the District Superintendent of Police and upon the instructions of the Superintendent of Police, Thiruvallore, the Sub Inspector of Police attached to the respondent proceeded to the Rajiv Gandhi Nagar, near Kadambathur Railway Station. According to the information, some persons were selling ganja in the car between 8.00 a.m. to 9.00 a.m. at Rajiv Gandhi Nagar near Kadambathur Railway Station. The Sub-Inspector of Police after informing the instructions given by the Superintendent of Police to the respondent at 7.00 a.m., got permission over phone at 7.15 a.m. and recorded the receipt of information in general diary at 7.30 a.m., left the police station at 7.45 a.m. with his police parties and reached the spot at 8.00 a.m. On the identification given by the informant, they secured A1 to A4. The said Sub Inspector of Police after complying the Section 50(1) Notice of



CrI.OP.No.28418 of 2022

NDPS Act searched the Baleno car bearing registration No. TN 10 BM 3339 and seized 15 Nos of LSD Stamp from the dash board of the car. Further, they also seized the said car and pulsar motor bike bearing registration No. TN 10 BK 0159 and two mobile phones in the presence of police witnesses. Two samples of each 2 numbers of LSD stamps marked as S1 and S2 were taken, later the petitioner/A1 was arrested and his confession statement was recorded. The said Sub-Inspector of Police complied 50(2) Notice to the A2 and thereafter, he was arrested at 11.00 hrs. Thereafter, A3 was served with 50(2) Notice and searched the scorpio vehicle bearing No. TN 02 AT 7099. From the dash board of the car 10 numbers of LSD Stamps, 26 numbers of MDMA tablets and METH CRYSTAL weighing 1 gram were seized. He was also arrested and his confession statement was also recorded. Thereafter, A4 was served with 50(2) Notice and he was also arrested. Based on the confession statement of A1 to A4, the respondent went to the Thiruvallur Railway station and apprehended other accused persons and seized 2.5 Kgs of Ganja from A10. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit



Crl.OP.No.28418 of 2022

that the petitioner is arrayed as A9 in this case. He would also submit that the case of the prosecution is that the petitioner along with the other accused were found in suspicious circumstances and that in search of a car belonging to one Rohan/A1 resulting in recovery of the contraband. Even as per the First Information Report, nothing has been recovered from the petitioner and since, he was found in the company of the other accused, he has been arrested. He would further submit that the main accused Rohan/A1 from whom the alleged contraband was recovered has been granted bail by this Court in Crl.O.P.No.18358 of 2022 on 26.08.2022 and as far as this case is concerned, the role of the petitioner is lesser than that of the said Rohan/A1, who has been granted bail by this Court. Therefore, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner along with the other accused were found in possession of 10 Nos of LSD Stamps and 26 Nos of MDMA tablets and 1 gm of Meth Crystal. He would also submit that the said contraband has been recovered from the car belonging to the one Rohan/A1



Crl.OP.No.28418 of 2022

and the said Rohan/A1 was granted bail by this Court in Crl.O.P.No.18358 of 2022 on 26.08.2022. He would submit that the petitioner is a resident of Tiruppura and if bail is granted to the petitioner, there is every possibility of the petitioner to be absconded. However, he vehemently opposed to grant bail to the petitioner.

5. At this juncture, learned counsel for the petitioner would submit that the petitioner is ready and willing to furnish the proof of residence at the time of furnishing sureties and that his relatives are ready to stand as sureties.

6. Heard both the learned counsel and perused the materials available on record.

7.. It is seen from the records that the alleged contraband has been recovered from the car belonging to the said Rohan/A1 and he has been granted bail by this Court on 26.08.2022. This Court finding that the said Rohan/A1 has satisfied the twin conditions as contemplated under Section 37 of the NDPS Act, had granted bail to him. Therefore, this Court is of the



Crl.OP.No.28418 of 2022

opinion that the petitioner is entitled for grant of bail.

7. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel and also the fact that the similarly placed accused in this case has been granted bail by this Court on 26.08.2022, this Court is inclined to grant bail to the petitioner.

8. Accordingly, the 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 blood related sureties**, each for a like sum to the satisfaction of the **learned Principal Special Judge, EC & NDPS Act Cases, 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 furnish the proof of permanent residence at the time of furnishing sureties.

[c] The learned Principal Special Judge



CrI.OP.No.28418 of 2022

shall verify and satisfy himself with regard to the proof of permanent residence produced by the petitioner, at the time of furnishing sureties.

[d] the petitioner shall report before the respondent police twice daily at 10.30 a.m. and 5.30 p.m., until further orders.

[e] 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].

A.D.JAGADISH CHANDIRA,J.



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Crl.OP.No.28418 of 2022

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

28.11.2022

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To

1. The learned Principal Special Judge for EC/NDPS Court, Chennai
2. The Inspector of Police,
Kadambathur Police Station,
Thiruvallur District
3. The Central Prison,
Chennai
4. The Public Prosecutor,
High Court of Madras.

Crl.O.P.No.28418 of 2022