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Crl.O.P.No.28868 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2022

CORAM

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

Crl.O.P.No.28868 of 2022

Pawan Kalyan

... Petitioner

Vs.

The State represented by
The Inspector of Police,
F3, Nungambakkam Police Station,
Chennai 600 034.
(Crime No.273 of 2022)

... Respondent

PRAYER in all Crl.O.P.'s: Criminal Original Petition filed under Section 439 of Cr.P.C., to enlarge the petitioner on bail concerned in Crime No.273 of 2022 on the file of the Inspector of Police, F3, Nungambakkam Police Station, Chennai.

For Petitioner : Mr.M.Praveen Kumar

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 17.09.2022 for the offences punishable under Sections 8(c) r/w 20(b)(II)(B) @ 8(C) r/w 20(b)(ii)(B) of NDPS r/w 22 (b) of NDPS Act, 1985 in Crime No.273 of 2022 on the file of the respondent Police, seek bail.

2. The case of the prosecution as per the *de-facto* complainant Maruthu, Sub – Inspector of Police, F-3 Nungambakkam Police Station, Chennai is that on 16.09.2022, he received a secret information with regard to one Vijay Roshan Daga/A1 and Thomas/A2 that they were present near Ponnusamy Hotel at Jegannathan street, Nungambakkam with an intent to sell ganja. Based on the information, the *de-facto* complainant along with 2 other police went to the scene of occurrence and found A1 & A2 standing there and upon enquiry and after intimation, they were searched and that the contraband of 1.100 Kg of ganja was recovered from them and thereafter, confession was recorded from A1 & A2 and from them one Apple i-phone and one Redmi phone was recovered. Further allegation of the respondent is that based on the confession recorded from A1 & A2 that the other accused Viz., A3/Karthick, A4/Aakash and A5/Bhawan Kalyan/petitioner had



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informed them that they would supply drugs to them on the next day, the respondent police waited for the other accused and they were arrested within the limits of the respondent police station and from A3/Karthick, 1.400 Kg of ganja, Ecstasy Pills 33 Nos and LSD Hallucinogens 19 stamps were recovered and from A6/Vishal, 2.100 Kgs of ganja was recovered. The accused A1/Vijay Roshan Daga & A2/Thomas were arrested on 16.09.2022, A3/Karthick, A4/Akash & A5/Pawan Kalyan/petitioner were arrested on 17.09.2022 and A6/Vishal & A7/Britton Maya were arrested on 30.09.2022. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner has been arrayed as A5 in this case and he has been roped in this case based on the confession recorded from A1 & A2. The petitioner was arrested on 17.09.2022 and absolutely there is no recovery from the petitioner. He would submit that the petitioner has completed his studies at SRM University, Ramapuram, Chennai during the year 2020 and he is on look out for a job. He would further submit that the petitioner is in custody from 17.09.2022 and seeks for grant of bail to the petitioner.

4. The respondent has filed a counter.



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5. Mr.C.E.Pratap, the learned Government Advocate (CrI.side) appearing for the respondent would submit that based on the specific information, A1/Vijay Roshan Daga and A2/Thomas were intercepted near Ponnusamy Hotel on 16.09.2022 and from them 1.100 Kg of ganja was recovered. Later, they voluntarily confessed that other accused are known to them and they have assured to give drugs to them and based on the confession recorded from A1 & A2, the respondent police was able to arrest the other accused. He would submit that from one Karthick/A3 in this case, 1.400 Kg of ganja, Ecstasy Pills 33 Nos and LSD Hallucinogens 19 stamps were recovered, which is a commercial quantity and from Vishal/A6 2.100 Kgs of ganja was recovered. The said Karthick/A3 was arrested on 17.09.2022 and Vishal/A6 was arrested on 30.09.2022. Akash/A4 was arrested on 17.09.2022 and no contraband has been recovered from him. The commercial quantity has been recovered only from A3 and he would submit that as far as this petitioner is concerned, there is no recovery. However, he vehemently opposed to grant bail to the petitioner.

10. Heard both the learned counsel and perused the materials



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available on record including the First Information Report.

11. Taking into consideration of the fact that as on date, other than the confession recorded from the A1 & A2, there is no other material against the petitioner and also taking note of the fact that since there is no recovery from the petitioner, the rigors of Section 37 of NDPS Act will not be applicable to him, this Court is inclined to grant bail to the petitioner.

12. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.50,000/- (Rupees Fifty thousand only)** with **two sureties (One among the sureties shall be either the father or mother of the petitioner)**, each for a like sum to the satisfaction of **XIV Metropolitan Magistrate Court, Egmore**, 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 report before the respondent police everyday at 10.30 a.m., until further orders;

[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner shall not tamper with evidence or witness 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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To

1. The XIV Metropolitan Magistrate Court, Egmore.
2. The Inspector of Police,
F3, Nungambakkam Police Station,
Chennai 600 034.
3. The Sub Jail,
Saidapet.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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