



Crl.O.P.No.2229 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.02.2023

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

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Pasupathi,
S/o.Raju

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
Erode North Police Station,
Erode Dt
(Crime No.540 of 2022)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.540 of 2022 pending on the file of respondent police.

For Petitioner : Mr.S.Arivazhagan

For Respondent : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl.Side.)



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ORDER

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The petitioner, who was arrested and remanded to judicial custody on 23.12.2022 for the alleged offence under Section 328 of I.P.C. in Crime No.540 of 2022 on the file of the respondent police, seeks bail.

2. The case of prosecution is that on 23.12.2022, when the respondent police was on patrol duty, the petitioner along with other accused said to have found in possession of intoxicating drug viz., Tapentado tablets illegally for the purpose of selling the same without having any valid license and seized the same. Hence, the complaint was registered against the petitioner.

3. The learned counsel appearing for petitioner submitted that the entire allegation is false, vindictive, wanton and he is no way connected with the offence. He would submit that he has not at all committed any of offence as alleged by the respondent police and he has been falsely implicated in this case and he will abide by any condition that may be imposed by this court. He would further submit that the investigation is



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almost completed and that the petitioner has been suffering incarceration for more than 40 days from 23.12.2022. Hence, he prayed to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for respondent would submit that totally there are 5 accused involved in this case and the petitioner is arrayed as A4 and no previous case is pending against him. He would submit that on the date of occurrence, when the respondent police was on patrol duty, they found the petitioner along with other accused were found in possession of intoxicating drug. He would submit that that if he is released on bail, he would tamper the witnesses and hamper the investigation and the investigation is almost completed. Hence, he vehemently opposed to grant bail to the petitioner.

5. Considering the above facts and circumstances, and also considering the fact that the investigation almost completed and no previous case pending against him and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

6. Accordingly, the petitioner is ordered to be released on bail



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on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each, **in which one surety must be a surety**, for a like sum to the satisfaction of the **learned Judicial Magistrate No.1, Erode**, and on further conditions that:

(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned 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 on alternative days at 10.30 a.m. for period of two months;

(c) the petitioner shall not commit any offences of similar nature;

(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 Judicial 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***



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of Kerala [(2005)AIR SCW 5560];

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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To

1. The Judicial Magistrate No.1,
Erode.
2. Inspector of Police,
Erode North Police Station,
Erode Dt.
3. The Superintendent of Prison,
Central Prison, Coimbatore.
4. The Public Prosecutor,
High Court of Madras, Chennai.



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T.V. THAMILSELVI, J.

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Crl.O.P.No. 2229 of 2023

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