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Crl.O.P.No.4323 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2023

CORAM

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

Crl.O.P.No.4323 of 2023

Vivekanandan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
K-11, CMBT Police Station.

(Crime No.638 of 2019).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending trial in C.C.No.174 of 2019
on the file of the learned Principal Sessions Judge for NDPS Act Cases,
Chennai.

For Petitioner : Mr.O.Chembulingam

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 19.01.2023, pursuant to the non-bailable warrant of arrest issued on 22.08.2022, in C.C.No.174 of 2019, in connection with Crime No.638 of 2019, pending on the file of the learned Principal Sessions Judge for NDPS Act Cases, Chennai, seeks bail.

2. Learned counsel for the petitioner submitted that the petitioner is an accused (A1) facing trial in C.C.No.174 of 2019, for the alleged offence under Sections 8(c) r/w 20(b)(ii)(B) of Narcotic Drugs and Psychotropic Substances Act, 1985, pending on the file of the learned Principal Sessions Judge for NDPS Act Cases, Chennai. He further submitted that the petitioner has all along been regularly appearing before the Court on all hearing dates and since, the petitioner was working as a Cleaner in a National permit lorry, he was away from the State, therefore, he asked his counsel to file an application under Section 317 Cr.P.C on 18.08.2022 and thereby, the learned trial Judge allowed the application and adjourned the matter to 22.08.2022,



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whereas, the petitioner was unable to appear before the trial Court within 4 days and his counsel also failed to file an application under Section 317 Cr.P.C, therefore, the learned trial Court has issued a non-bailable warrant of arrest against the petitioner and pursuant to which, he was arrested from his residence on 19.01.2023 and he is in custody for more than 50 days. He also submitted that the petitioner is prepared to abide by any stringent condition that may be imposed by this Court. Therefore, he prays for grant of bail to the petitioner.

3. Learned Additional Public Prosecutor appearing for the respondent submitted that since the petitioner has failed to appear before the trial Court in C.C.No.174 of 2019 on 22.08.2022, a Non-Bailable Warrant of arrest was issued against him and pursuant to the same, he was arrested on 19.01.2023. He further submitted that the case now stands posted on 23.03.2023 for questioning the accused under Section 313 Cr.P.C. and the co-accused is still absconding, therefore, if bail is granted to the petitioner, there is every possibility of him, to abscond again and would derail the progress of trial. Therefore, he opposed to grant bail to the petitioner.



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4. At this juncture the learned counsel for the petitioner submitted that the petitioner is ready to appear before the trial Court on all working days. He further submitted that the petitioner is ready to furnish sufficient sureties and he is also ready to co-operate for speedy disposal of the trial. Therefore, he prays for grant of bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and perused the materials available on record.

6. Taking into consideration the facts and circumstances of the case and the submissions made by either side of the parties and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner.

7. Accordingly, 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 sureties** (out of which, one surety should be either father or mother of the petitioner), each for a like sum to the satisfaction of the **learned**



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Principal Sessions Judge for 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 appear before the learned Principal Sessions Judge for NDPS Act Cases, Chennai, on all working days at 10.30a.m., and also report before the respondent police on every Saturday at 6.30 p.m., until further orders;

[c] the petitioner shall not abscond during trial;

[d] the petitioner shall not tamper with evidence or witness during 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]**;



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

14.03.2023

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To

1. The Principal Sessions Judge for NDPS Act Cases,
Chennai.
2. The Inspector of Police,
K-11, CMBT Police Station,
Chennai.
3. The Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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