



Crl.O.P.No.4649 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2023

CORAM

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

Crl.O.P.No.4649 of 2023

Prathab @ Mike

... Petitioner

Vs.

The State represented by,
The Intelligence Officer,
Director of Revenue Intelligence,
No.27, GN Chetty Road,
T.Nagar, Chennai 17.

(C.C.No.33 of 2018).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner/accused on bail, in connection with the
C.C.No.33 of 2018, pending on the file of the I Additional Special Court for
exclusive trial of cases under NDPS Act, Chennai.

For Petitioner : Mr.R.C.Paul Kanagaraj

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 29.09.2018 for the offences punishable under Sections 8(c) r/w Sections 22(c), 23, 25, 27A, 28 and 29 of NDPS Act r/w Section 9A r/w Section 25A of NDPS Act of NDPS (Regulation of controlled substances) order 1993 r/w 135A of Customs Act, 1962 in C.C.No.33 of 2018 on the file of the I Additional Special Court for exclusive trial of cases under NDPS Act, Chennai, seeks bail.

2. The case of the prosecution is that based on an anonymous call, the respondent herein went on secret search to JSM warehouse, situated at Survey No.332/2 Sothupakkam Road, Budur, Rehills, Chennai and found the raw materials used for production of narcotic substances. It is also alleged that the output products which are commercial quantity of Narcotic Drugs were found, stored and packed at a godown located at Star Exports, 108, School Road, Magadu, Chennai. Hence the complaint.

3. Learned counsel appearing for the petitioner submitted that there are totally 12 accused, in which, the petitioner is arrayed as A12 and he was



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working as employee under A1 to A3 for monthly salary in a soap manufacturing company. He further submitted that the petitioner is not aware of any details with regard to the unlawful manufacturing activity being done by the main accused. He further submitted that the investigation in this case has been completed and the case is pending trial in C.C.No.33 of 2018 on the file of the I Additional Special Court for exclusive trial of cases under NDPS Act, Chennai. He further submitted that other than the confession statement alleged to have been recorded from one of the co-accused/A8 under Section 67 of NDPS Act, there is absolutely no materials as against the petitioner to implicate him in this case. He also submitted that there is no recovery of contraband from this petitioner and the co-accused in this case, who are similarly placed, have been earlier granted bail by this Court in Crl.O.P.Nos.9178, 9181 & 9183 of 2022 and Crl.O.P.No.16780 of 2022. He also submitted that the petitioner is in judicial custody from 29.09.2018 and hence, he prays for grant of bail to the petitioner.

4. The respondent has filed a detailed counter.

5.The learned Special Public Prosecutor for the respondent submitted that the search was conducted at M/s.JSM Ware house, in presence



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of 2 independent witnesses. At the time of search, the second accused and other accused persons were present in the premises. During the course of search, the officers found 3.065 kgs of powdery substance tested positive for 'methamphetamine' a drug under the NDPS Act, 1985. It was tested with field test kit and 1.305 kgs of powdery substance tested positive for 'pseudo ephedrine'. Both the contrabands were seized along with Rs.6.5 lakhs cash, 2 cars being used for transporting the narcotic drugs. He further submitted that during the course of search, the officers found and seized 11.010 kgs of white crystalline powder which on being tested with the drug detention test kit answered positive for 'amphetamines', 55.505 kgs of white crystalline powder which on being tested with drug detention test kit answered positive for 'pseudo ephedrine, a controlled substance covered under the NDPS Act, 1985, 90.825 kgs of brown powdery substance which on being tested with the help of the drug field test kit answered positive for 'heroin', a narcotic drug covered under the NDPS Act, 1985. The statements under Section 67 of NDPS Act were recorded from A1 to A10. He further submitted that the petitioner had entered into a criminal conspiracy with other accused to manufacture, procure and transport of narcotic substances. He also submitted that the petitioner has entire knowledge of what was happening in the factory



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premises and also well aware of the manufacture of narcotic drugs taking place in the factory premises. Hence, he opposed for grant of bail to the petitioner.

6.Heard the learned counsel for the petitioner and the learned Special Public Prosecutor and perused the materials available on record.

7. In this case, A5 to A7, who are similarly placed as that of the petitioner have been granted bail by this Court in Crl.O.P.Nos..9178, 9181 & 9183 of 2022 dated 06.06.2022 and further, A8 has been granted bail by this Court in Crl.O.P.No.16780 of 2022 dated 22.07.2022. The petitioner has been implicated in this case only based on the confession statement recorded from A8, other than the alleged confession statement, there is no recovery from the petitioner.

8.Taking into consideration the above facts and circumstances of the case and the submissions made by the learned counsel for the petitioner that the co-accused in this case have already been enlarged on bail by this Court and also considering the period of incarceration undergone by the



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petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

9. 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**, each for a like sum to the satisfaction of the **learned I Additional Special Judge for exclusive trial of cases under NDPS Act, 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 report before the trial Court daily twice at 10.30 a.m., and 5.30 p.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



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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.

08.03.2023

vk

To

1. The I Additional special Judge
for exclusive trial of cases under NDPS Act,
Chennai.
2. The Intelligence Officer,
Director of Revenue Intelligence,
No.27, GN Chetty Road,
T.Nagar, Chennai 17.
3. The Central Prison,
Puzhal.
4. The Public Prosecutor, High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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