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Crl.O.P.No.5058 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2023

CORAM

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

Crl.O.P.No.5058 of 2023

Mathi @ Mathiyalagan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
N-4, Fishing Harbour Police Station,
Chennai.

(Crime No.105 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in C.C.No.42 of 2023 (on the file of
the learned Principal Special Court under EC & NDPS, Chennai) connected
with the Crime No.105 of 2022 on the file of the respondent police.

For Petitioner : Mr.M.Illiyas

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)



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ORDER

The petitioner, who was arrested by the respondent police through PT Warrant on 01.11.2022 for the offences punishable under sections 8(c), 22(c), 29(1) of NDPS Act 1985 in Crime No.105 of 2022, seeks bail.

2. The case of the prosecution is that on 11.06.2022 at about 13.10 hours, Tr.Boobalan, Sub Inspector of Police on receipt of secret information about illegal sale of drug tablet at Nagooran Thottam, entered the same in the General Diary and after obtaining permission, he along with his party went to the scene of occurrence. At that time, three unknown persons were standing with black color bag and on seeing the police, they tried to escape from that place. Immediately the police caught hold of two of them and yet another person escaped from that place and subsequently, during search, they found MDMA-ecstasy tablets-21 nos. weighing 10.15 grams from the accused Stephen @ Moonu Thalai Stephen/A1 and the said contraband was seized under seizure mahazar in the presence of witnesses. On the enquiry with A1 and A2, they came to know that the person who had escaped from the scene of occurrence is one Mathi @ Mathiyalagan/petitioner herein. Based on the above, a case was registered in N4 Fishing Harbour Police Station in Crime



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No.105 of 2022 under sections 8(c) r/w.22(c), 29(1) NDPS Act against the accused 1 to 3 on 11.06.2022. Hence the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely roped in this case. He would submit that the fact remains that the petitioner has got previous cases against him and only in order to put fetters on him, the respondent police have filed this false case against him. He would submit that though there is a connection between A1 and A2 who are being the co-accused in several cases, the petitioner is not at all connected with A1 and A2. He would submit that based on the confession of the co-accused, the petitioner has been arrested and he has been in custody for the past four months. He would submit that the respondent after completion of investigation have filed the final report and even in the final report other than the statements recorded from A1 and A2, there is absolutely no material to connect the petitioner with the other accused and there is no recovery from the petitioner. Hence, he prays to grant bail to the petitioner.



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4. The learned Government Advocate(Crl.Side) would submit that the petitioner along with other accused was found at the scene of occurrence and on seeing the police, the petitioner ran away and escaped. He would submit that A1 and A2 have confessed that the petitioner is the person who has ran away from the scene of occurrence. He would submit that from A1, 21 nos of MDMA ecstasy tablets weighing 10.15 gram has been recovered which is a commercial in nature and they were arrested. Further, the chemical report obtained on 22.08.2022 has also confirmed that the material is MDMA. However, he would submit that other than the confession recorded from A1 and A2, there is no material to connect the petitioner to the offence and the petitioner has got 27 cases out of which, two cases have been registered against the petitioner for having found in possession of Ganja and he would object for grant of bail to the petitioner.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate(Crl.Side) and perused the materials available on record including the First Information Report.



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6.It is submitted by the petitioner that he has no connection what so ever with A1 and A2 and there is absolutely no material to connect the petitioner, other than the confession and no recovery was made from the petitioner. It is the further contention of the petitioner since he has got 27 previous cases within the respondent police range, he has been falsely roped in this case. Hence, he prays to grant bail to the petitioner.

7. Taking into consideration the facts that apart from the confession recorded from A1 and A2, there is no material to connect the petitioner, and that this Court is of the opinion that the petitioner has satisfied the condition required under Section 37 of NDPS, for grant of bail and thereby this Court is inclined to grant bail to the petitioner with certain conditions.

8. 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 Principal Special Court under EC & NDPS Act, Chennai**, and on further conditions that:



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[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 respondent police daily at 7.00 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 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.

29.03.2023

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- To**
1. The Principal Special Court under EC & NDPS Act, Chennai.
 2. The Inspector of Police,
N-4, Fishing Harbour Police Station,
Chennai.
 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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