



Crl.O.P.No.6079 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2023

CORAM

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

Crl.O.P.No.6079 of 2023

Mohammed Esa

... petitioner

Vs.

The State represented by,
The Inspector of Police,
D1 Triplicane Police Station,
Chennai.

(Crime No.517 of 2022).

... 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.328 of 2022, pending on the file of II Additional Special Court for
NDPS and EC Act cases, Chennai.

For petitioner : Mr.G.Mohana Krishnan

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 12.08.2022 for the offences punishable under Section 8(c) r/w 22(c) of NDPS Act in C.C.No.328 of 2022, on the file of the II Additional Special Court for NDPS and EC Act cases, Chennai, seeks bail.

2. The case of the prosecution is that on receiving a secret information, the respondent Police along with his team went to the scene of occurrence and they found that the petitioner along with other accused was in illegal possession of 15 grams of ICE @ methamphetamine and 3.20 grams kgs of LSD Stamp. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that even as per the prosecution, 15 grams of ICE @ methamphetamine is stated to have been recovered from the petitioner, which is an intermediate quantity. He would further submit that other than the confession statement alleged to have been recorded from the petitioner, no other material has been produced by the respondent Police to



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show that the petitioner was having connection with A2 and A3. He would further submit that A2, from whom, 3.20 grams of LSD stamps, which is a commercial quantity, has been recovered, has been granted bail by this Court in Crl.O.P.No.4167 of 2023 dated 27.02.2023. He would further submit that the petitioner is in judicial custody from 12.08.2022 for the past 6 months. He would also submit that the charge sheet has been filed before the learned II Additional Special Judge for NDPS and the case has been taken on file in C.C.No.328 of 2022. Hence, he prays for grant of bail to the petitioner.

4. The respondent has filed a detailed counter.

5.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that while the respondent Police was on regular patrol, the petitioner along with two other accused was found to be in possession of 15 grams of ICE @ methamphetamine and 3.20 grams of LSD Stamps. He would further submit that 15 grams of methamphetamine was recovered from this petitioner and 3.20 grams of LSD stamps was recovered from A2. He would further submit that the contraband recovered from A2 is a commercial quantity and A2 has been granted bail by this Court in



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Crl.O.P.No.4167 of 2023. He would further submit other than the confession statement recorded from this petitioner and A2, there is no other material to connect each other. However, he opposed for grant of bail to the petitioner.

6.Heard the learned counsel for the petitioner and the learned Government Advocate (crl.side) and perused the materials available on record.

7.Though the combined quantity of contraband recovered in this case is a commercial quantity, as per the prosecution an amount of 15 grams of methamphetamine is stated to have been recovered from this petitioner. It is also the case of the petitioner that A2, from whom, 3.20 grams of LSD stamps, which is a commercial quantity, has been recovered, was granted bail by this Court in Crl.O.P.No.4167 of 2023 dated 27.02.2023. Further, it is also stated that other than the confession statement recorded from this petitioner, there is no other material to connect the petitioner with A2 in this case. This Court is of the opinion that the co-accused, who has been arrested with commercial quantity of contraband, has been granted bail by this Court in Crl.O.P.No.4167 of 2023, the petitioner is entitled for bail on parity and



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moreover, this Court is of the opinion that the petitioner has also satisfied the twin conditions required under Section 37 of NDPS Act for grant of bail.

8. Taking into consideration the facts and circumstances of the case, the submissions made by either side and also considering the period of incarceration, 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 II Additional Special Judge for EC & 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 report before the learned II Additional Special Judge for EC & NDPS Act cases, Chennai, on all working days at 10.30 a.m.,**



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and also report before the respondent Police on every Saturday at 6.30 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 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.

27.03.2023

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To



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1. The II Additional Special Judge for EC & NDPS Act cases,
Chennai.
2. The Inspector of Police,
D1 Triplicane Police Station,
Chennai.
3. The Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court of Madras.

A.D.JAGADISH CHANDIRA.,J.



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