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Crl.O.P.No.6525 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2023

CORAM

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

Crl.O.P.No.6525 of 2023

Rajendhiran @ Anda

... Petitioner

Vs.

State, represented by
The Inspector of Police,
H-6, R.K.Nagar Police Station,
Thiruvallur District.
(Crime No.784 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.784 of 2022 pending
investigation on the file of the respondent police.

For Petitioner : Mr.P.Chandrasekar

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 22.12.2022, for the offences punishable under Sections 8(c) r/w 22(c),
29(1) of NDPS Act as amended by Act 9/2001, in Crime No.784 of 2022 on
the file of the respondent police, seeks bail.



2. The case of the prosecution is that on 12.12.2022 at about 09.00 a.m., the Sub Inspector of Police, attached to the respondent police station, received a secret information and entered the same in the General Diary and after obtaining permission from the Inspector of Police, the Sub Inspector of Police along with his police parties, went to the scene of occurrence in the Meenambal Bridge down, R.K.Nagar, Chennai wherein, 5 persons were standing with black plastic covers in hand. On seeing the police persons, A4/Robert and A5-Rajendhiran @ Anda started to run away from the scene of occurrence and the police secured A1-Vinoth Kumar @ Kaiuumbi Vinoth, A2-Prakash @ Kisa Prakash and A3-Alex and seized contraband viz., NITROVET-10 Tablet 315 Nos. (weighing 174.51 grams) from A1, NITROVET-10 Tablet 300 Nos. (Weighing 166.2 grams) from A2 and NITROVET-10 Tablet 300 Nos. (weighing 166.2 grams) from A3 and in total, NITROVET-10 Tablet 915 Nos. (weighing 506.91 grams) were recovered from A1 to A3. Subsequently, A1 to A3 confessed that A4 and A5 were the persons who ran away from the scene of occurrence with black plastic covers which were containing NITROVET-10 Tablets. Hence, the case was registered against the accused persons and during the course of investigation, A5/the petitioner herein was arrested and he confessed that he had consumed part of the contraband and sold the remaining contraband to



unknown persons.

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3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case based on the confession alleged to have been recorded from the arrested accused from whom, commercial quantity of contraband was recovered. He would further submit that other than the confession statement, alleged to have been recorded from the other accused, there is absolutely no material to link the petitioner to the crime. More over, the petitioner's name does not find place in the FIR and the petitioner has been in judicial custody for more than 100 days from 22.12.2022. Hence, he would pray to grant bail to the petitioner.

4. Learned Government Advocate (Crl. Side) appearing for the respondent police vehemently opposed for grant of bail to the petitioner stating that the petitioner was arrested based on the confession statement recorded from the arrested accused from whom commercial quantity of 915 grams of NITROVET-10 Tablet were recovered. He would further submit that after the arrest of the petitioner, the petitioner also confessed that he was in possession of contraband and he consumed part of the contraband and sold the remaining contraband to 3rd party. Further, the petitioner has got one previous case registered by the respondent police in Crime No.3556 of 2020



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for the offences under Sections 147, 148, 294(b), 323, 324, 307, 506(2) IPC.

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5. The respondent police has filed a detailed counter and the specific overt-act of the accused persons in this case as mentioned below;-

S.No.	Accused	Contraband Seized	Commercial/Non Commercial	NDPS Schedule No.	Chemical Report
1	A-1 Vinoth Kumar @ Kaiuumbi Vinoth	NITROVET-10 Tablet (weight 174.51 grams)	Commercial (Total Weight 915 grams)	221	Not obtained (Top Priority requisition Letter given on 02.01.23)
2	A-2 Prakash @ Kisa Prakash	NITROVET-10 Tablet (weight 166.2 grams)			
3	A-3 Alex	NITROVET-10 Tablet (weight 166.2 grams)			
4	A-4 Robert	Nil	--	--	--
5	A-5 Rajendhiran @ Anda	Nil	--	--	--

6. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) and perused the materials available on record and also the counter filed by the respondent police.



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7. It is the case of the prosecution that on a specific information, the respondent police arrested A1 to A3 and from them, recovered commercial quantity of 915 grams of contraband and subsequently, based on their confession statement, the petitioner was arrested. However, nothing has been recovered from the petitioner. As stated by the learned counsel for the petitioner other than the confession statement, there is no other material to connect the petitioner with this case. Hence, this Court is of the opinion that the petitioner has satisfied the twin conditions as required under Section 37 of NDPS Act. Hence, this Court is inclined to grant of bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail on condition to make a non refundable deposit of **Rs.10,000/- (Rupees Ten Thousand only)** by way of **Demand Draft/RTGS/NEFT to "the Rajiv Gandhi Government General Hospital, Chennai"** without prejudice to his rights and contentions before the trial Court, on such deposit and production of proof, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand Only)** with **two sureties out of which, one shall be a blood related surety,** for a like sum to the satisfaction of the **learned XV Metropolitan**



Magistrate, George Town , 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 respondent police every day at 06.30 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.

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To

1. The XV Metropolitan Magistrate,
George Town, Chennai.
2. The Inspector of Police,
H-6, R.K.Nagar Police Station,
Thiruvallur District.
3. The Superintendent,
Central Prison, Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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