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Crl.O.P.No.7263 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.04.2023

CORAM:

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

Crl.O.P.No.7263 of 2023

Piraiyarasan

.. Petitioner

/versus/

State rep.by
The Inspector of Police,
N2-Kasimedu Police Station,
Chennai.
(Crime No.143 of 2022)

.. Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, praying to enlarge the petitioner on bail in Crime No.143 of 2022 on the file of Inspector of Police, N2-Kasimedu Police Station, Chennai.

For Petitioner : Mr.M.Muthu Sabareesan

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 06.07.2022, for the offences punishable under Sections 8(c), 20(b)(ii)(A), 22(c) of Narcotic Drugs & Psychotropic Substances Act,



1985, in Crime No.143 of 2022, on the file of the respondent police, seeks bail.

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2. The case of the prosecution is that on 06.07.2022 at about 20.00 hours, on receipt of a secret information and after entering the same in the general diary, the Sub Inspector of Police along with his police team, went to the Kasimedu Power Kuppam Subway, wherein, they found the accused in possession of 8 Lysergic Acid Diethylamide stamps. The respondent sized the same under the cover of seizure mahazar and arrested the accused persons. Hence the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and a false case has been foisted against him. He would submit that the respondent had also registered a case in Crime No.142 of 2022 against the petitioner and others on the complaint given by one Rajesh and in that case, the accused were stated to have been committed the offence at 13.45 hours on 06.07.2022. Subsequently, the accused were arrested and they were brutally assaulted by the respondent police in the police station. Thereafter the present case has



been foisted in Crime No.143 of 2022 as if, the petitioner and other accused were found in illegal possession of 8 Lysergic Acid Diethylamide stamps and the very registration of the case will show that it is a foisted case.

4. The learned counsel for the petitioner would further submit that even as per the FIR in Crime No.143 of 2022, the petitioner was stated to have been found near Kasimedu Power Kuppam Subway, which is beyond the jurisdictional limit of the respondent police. Further, the said contraband was stated to have been recovered from A1 and he is also stated to have given confession statement with regard to the same. He would submit that no confession has been recorded from the petitioner as if, the petitioner had knowledge about the first accused having been in possession of contraband and that the petitioner was also in conscious possession of the contraband. He would submit that the petitioner has been granted bail in connection with Crime No.142 of 22 by the Court of Sessions on 04.08.2022 and the present case has been foisted only to keep the petitioner in continuous detention. He would submit that the similarly placed accused one Dilip Kumar who has been



arrayed as A4 in the FIR, has been granted bail by this Court in Crl.O.P.No.20639 of 2022 dated 15.09.2022. He would further submit that admittedly there are several criminal cases pending against the petitioner under various provisions of IPC, whereas only in order to keep the petitioner in continued detention, this case has been registered. He would submit that the petitioner has made out a prima facie case and satisfied the requirements under Section 37 of the NDPS Act for grant of bail and thereby he would pray for grant of bail.

5. The respondent has filed a detailed counter.

6. The learned Government Advocate (Crl.Side) would submit that the petitioner along with other accused was found in possession of 8 Lysergic Acid Diethylamide stamps. He would submit that co-accused A4 has been granted bail by this Court in Crl.O.P.No.20639 of 2022 dated 15.09.2022. He would further submit that the case has also been taken up for trial in CC.No.543 of 2022 on the file of the 2nd Additional Special Judge for EC and NDPS Act cases, Chennai.



7. Heard the learned Counsel for the petitioner and the learned Government Advocate(Crl.Side) and perused the materials available on record including the documents in the typed set of papers furnished by the petitioner.

8. This Court finds that the petitioner has made out a prima facie case satisfying the requirements under section 37 of NDPS Act and also taking into consideration the facts and circumstances of the case and the period of incarceration undergone by the 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 this executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five thousand only)** with **two sureties**, each for a like sum to the satisfaction of **the learned XVI Metropolitan Magistrate, 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 respondent police everyday at 10.30 a.m. and 05.30 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.

12.04.2023

Speaking Order / Non-Speaking Order

Index : yes/no

Internet : yes/no

mpa



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To

1.The XVI Metropolitan Magistrate, Chennai.

2.The Central Prison, Puzhal, Chennai.

3.The Inspector of Police,
N2-Kasimedu Police Station,
Chennai.

4.The Public Prosecutor,
High Court, Madras.



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A.D.JAGADISH CHANDIRA,J.

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