



Crl.O.P.No.7046 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2023

CORAM

THE HON'BLE MRS. JUSTICE **T.V.THAMILSELVI**

Crl.O.P.No.7046 of 2023

U.Samaiyan

... Petitioner

Vs.

Union of Indian through Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai – 600 053.
(R.R. No. 25 of 2022)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 of Cr.P.C.,
praying to enlarge the petitioner on bail pending investigation in R.R.
No. 25 of 2022 in NCB.F. No. 48/1/07/2022-NCB/MDS on the file of the
Respondent.

For Petitioner : Mr.K.G.Senthilkumar

For Respondent : Mr.N.P.Kumar

Special Public Prosecutor.



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ORDER

The petitioner, who has been arrested and remanded to judicial custody on 24.09.2022, for the offences punishable under Sections 8(c), 12, 22(c), 23(c), 24, 28 & 29 of the Narcotic Drugs and Psychotropic Act, 1985, in R.R.No.25 of 2022 in NCB F.No.48/1/07/2022-NCB/MDS, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 23.04.2022, on receiving a secret information about the trafficking of Methamphetamine from India to Srilanka, respondent Police conducted a search and found the first accused was in illegal possession of 184 grams of Methamphetamine. During enquiry, it came to light that A1 procured the contraband from the other accused and on further enquiry, it reveals that the petitioner along with the other accused A4 had supplied the above contraband to A3 for monetary consideration. Based on which, the respondent has registered a case against the accused for the offences punishable under Sections 8(c), 12, 22(c), 23(c), 24, 28 & 29 of the Narcotic Drugs and Psychotropic Act, 1985. Hence the case.

3. The learned counsel for the petitioner submitted that in the



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confession statement of the first accused he stated that he had obtained alleged contraband from A4. Thereafter, while the respondent gone to enquire A4 and he had found petitioner along with A4 and both of them called for enquiry and was remanded to judicial custody on 23.09.2022 without any incriminating evidence. Further the main allegation against the petitioner is that he has not reveal about the alleged drug trafficking activities conducted by A4, in order to protect A4 since because he is brother-in-law, hence the respondent allegation itself shows that he had not possess or sold the alleged contraband. Furthermore, near about six months after alleged date of occurrence petitioner was implicated as accused without any material evidence and also the petitioner have no bad antecedents. The petitioner has suffering incarceration for more than one year hence prays for bail.

4. The learned special public prosecutor submitted on 23.04.2022 the respondent received secret information about drug trafficking. Based on that said information, the respondent found 184 grams of Methamphetamine concealed in Travel Bag at Anna International Airport, Chennai on the same day and also arrested A1.



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Based on the information revealed by A1, Faizal Ahmed and Selvam A2 and A3 respectively were arrested in the month of April 2022. Upon enquiry A3 revealed that he procured alleged contraband from one Gnannam. Thereafter, the said Gananam/A4 and Samaiyan/A5 called for enquiry and they admitted their offence, based on their voluntary admission they were arrested on 23.09.2022. Further petitioner herein was an associate of A4/Gnanam in his drug trafficking activities deals. Further the petitioner in order to protect the A4 he did not inform to the law enforcement agencies. Hence he prays to dismiss this petition.

5. Considering the entire facts, this petitioner ranked as A5 and A4 is his brother-in-law. According to the petitioner on the date of alleged arrest the petitioner accompanied A4. Further, A4 was implicated in this case based on the confession statement of A3 who was arrested three months prior to the petitioners arrest. Even as per the submission of the prosecution, in the confession statement of A3, the petitioner's brother-in-law involvement was revealed in this case. But no contraband was recovered from the petitioner nor any specific overt act against him. Further the only allegation against the petitioner is that he did not reveal



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the alleged drug activities of A4 to the respondent since because A4 is his brother-in-law. Therefore suppression of criminal activities is amount to offence under Section 201 of IPC as well as Section 29 of NDPS Act. Hence the prosecution raised strong objection for granting bail. However, it is an admitted fact that the petitioner had no bad antecedents and it is also known fact that he accompanied A4 at the time of alleged arrest. In fact, as per the confession of A3 the involvement of A4 is revealed but there is no specific overt act against the petitioner. Further the only allegation against the petitioner is he had not disclosed about the drug trafficking activities indulged by his brother-in-law/A4. Furthermore there is no recovery of contraband from the petitioner. Hence this Court is inclined to grant bail to the petitioner on conditions that :

a) 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 Judge (EC & NDPS), Chennai – 600 104 and on further conditions that:-

b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of



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their Aadhar card or Bank pass Book to ensure their identity.

c) the petitioner shall report before the respondent police daily at 10.30. a.m., until further orders.

d) the petitioner shall not abscond either during investigation or trial.

e) the petitioner shall not tamper with evidence or witness either during investigation or trial.

f) 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 petitioners 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].

g) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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T.V.THAMILSELVI,J.



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To

1. The Principal Special Judge (EC & NDPS), Chennai – 600 10,
2. The Central Prison, Puzhal, Chennai.
3. The Public Prosecutor,
High Court of Madras.

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