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Crl.O.P.No.8076 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

CORAM

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

Crl.O.P.No.8076 of 2023

Santosh Kumar

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
T-3 Pallavaram Police Station,
Chennai District.

Crime No.810 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in pending investigation in Crime
No.810 of 2022 on the file of the respondent police.

For Petitioner : Mr.P.Anandakumar

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 11.10.2022 for the offences punishable under Section 8(c), 22(b), 27(a) and 25 of NDPS Act, 1985 in Crime No.810 of 2022, on the file of the respondent Police, seeks bail.

2.The case of the prosecution is that on 11.10.2022 at about 9.00 hours, when the Sub Inspector of Police was in station duty at that time, he received a secret information about the illegal transport of Narcotic Substance, after receiving the secret information, he along with his team went to the place of occurrence and conducted a vehicle check up, at that time, the respondent police stopped the vehicle of the accused and enquired them and found the petitioner along with other accused were in illegal possession of Nitrovet Tablet – 1300 numbers, Tydol 100 mg – 1700 numbers and the entire contraband was seized by the respondent police under the cover of seizure mahazar in the presence of witnesses. Based on the complaint, a case was registered in T-3 Pallavaram Police Station, Cr.No.810 of 2022 under section 8(c) r/w 22(b), 27(a), 25 of NDPS Act, 1985 against the accused. Hence, the complaint.



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3. Learned Counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that there is no material to show the petitioner is connected with the other accused and even as per the prosecution, the quantity of the tablets stated to have been recovered from the petitioner is 200 tablets each weighing 0.568 grams and total it will only come to 113.6 grams, which is an intermediate quantity. He further submitted that even as per the Narcotic Drugs and Psychotropic Substances Act, 1985, more than 500 grams of Nitravet only comes under commercial quantity, whereas, 113.6 grams of contraband has been recovered from the petitioner, which is an intermediate quantity. He further submitted that in respect of similarly placed accused one Stephen Kumar, who is stated to have been arrested in this case along with 200 Nitravet Tablets, has been granted bail by this Court in Crl.O.P.No.6415 of 2023 on 24.03.2023. He also submitted that the petitioner is in judicial custody from 11.10.2022 for more than five months. Hence, he prayed for grant of bail to the petitioner.

4.The respondent has filed a detailed counter and the specific overtact of the petitioner is extracted hereunder:-



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<i>S.No.</i>	<i>Accused</i>	<i>Contraband seized</i>	<i>Commercial/ Non commercial</i>	<i>NDPS Schedule No</i>	<i>Chemical Report</i>
1	Santhosh Kumar/A3	1.Nitravet Tablet – 200 (113.6 grams) 2.Tydol 200 (each weighing 100 mg)	Intermediate Quantity	221	NAR No.1189 of 2022 dated 27.02.2023

5. Learned Government Advocate (CrI.Side) appearing for the respondent police submitted that the petitioner was found in illegal possession of 200 Nitravet Tablet each weighing 0.568 grams total weighing about 113.6 grams and 200 Tydol each weighing 100 mgs, which is not a scheduled substance. He submitted that the contraband recovered from the petitioner is intermediate quantity. However, he opposed for grant of bail to the petitioner.

6. At this juncture, the learned counsel for the petitioner submitted that the petitioner, without prejudice to his defense and contention, is ready and willing to deposit an amount of Rs.10,000/- to any welfare scheme run by the Government. He further stated that the petitioner is in judicial custody from 11.10.2022 and hence, he prays for grant of bail to the petitioner.



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7. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record.

8. On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of "Charu Home for Aged" without prejudice to his rights and contentions before the trial Court.

9. Merely, because the petitioner has deposited the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

10. Taking into consideration the facts and circumstances of the case, the submissions made by either side of the parties and also taking note of the fact that the petitioner has come forward to deposit an amount of Rs.10,000/- to the credit of the "Charu Home for Aged", this Court is inclined to grant bail to the petitioner with certain conditions.



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11. 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) directly to the credit of "**Charu Home for Aged, Account Number : 2771201000291, IFSC Code : CNRB0002771, Canara Bank, Mahila Br., T.Nagar Chennai – 17**", 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 her 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 Judicial Magistrate No.II, Tambaram** 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 6.30 p.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,



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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]***;

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

25.04.2023

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To

1. The Judicial Magistrate No.II,
Tambaram.
2. The Inspector of Police,
T-3 Pallavaram Police Station,
Chennai District.
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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