



Crl.OP.No.8265 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.05.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.OP.No.8265 of 2023

David Michael Elia @ Didace Karangwa

... Petitioner

Vs.

State Rep by
Station House Officer,
Muthialpet Police Station,
Puducherry.
Crime No.42 of 2022

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to release the petitioner on bail in crime No. 42 of 2022 pending investigation on the file of the respondent police.

For Petitioner : Mr.R.Harinath

For Respondent : Mr.K.S.Mohandass,
Public Prosecutor (Pudy.)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 16.05.2022 for the offence punishable under Sections 8(c) r/w 20 (b)(ii)(c) of NDPS Act, 1985 in Crime No.42 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on receiving a information, the respondent police went to the scene of occurrence, wherein they found the petitioner along with other accused, who were African nationals and without any valid document for their presence in India and they were found to be in illegal possession of 11 grams of MDMA and 21 grams of Cocaine and the same were seized by them. Hence, the present complaint was lodged against the petitioner.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would also submit that he is originally native of Africa and staying at Salem and doing 2nd year M.C.A. in AVS college of Arts and



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Science, Salem and he has been falsely implicated in this case. He would also submit that the alleged contraband recovered from the petitioner is only an intermediate quantity. He would also submit that A1 and A3 were already granted bail. Hence, he seeks for grant of bail to the petitioner.

4. The learned Public Prosecutor (Pudy.) would submit that the petitioner was found to be in possession of 11 grams of MDMA and 21 grams of cocaine. Totally, there are three accused in this case and the petitioner is arrayed as A2. He would also submit that he has committed cheating by impersonation on giving false particulars in a passport and during investigation, he has cheated I.O. and he is likelihood of absconding. Hence, he vehemently opposed to grant bail to the petitioner.

5. It is seen that totally there are three accused in this case and the petitioner is arrayed as A2. He has committed cheating by impersonation on giving false passport and he has also cheated I.O. during investigation. Considering the above facts and circumstances of the case and also the period of incarceration by the petitioner, this Court



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is inclined to grant bail to the petitioner **on condition that the petitioner shall surrender his passport.**

6. On surrendering of his passport, 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 blood related sureties, each for a like sum to the satisfaction of the learned **Special Judge (III Addl. Sessions Judge), Puducherry** 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 daily morning at 10.30 a.m. and evening at 05.30 p.m. for a period of four weeks and thereafter report before the respondent police as and when required for interrogation (OR) 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



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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 absconds, a fresh FIR can be registered under Section 229A IPC.

04.05.2023

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To

- 1.The Special Judge, (III Addl. Sessions Judge),
Puducherry.
- 2.Station House Officer,
Muthialpet Police Station,
Puducherry.
3. Puducherry Prison.
- 4.The Public Prosecutor,
High Court of Madras,
Chennai



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G.K.ILANTHIRAIYAN, J.

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