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Crl.O.P.No.8524 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

CORAM

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

Crl.O.P.No.8524 of 2023

Mohammed Nofiq

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
PEW Anna Nagar Police Station,
Chennai.

Crime No.169 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in pending investigation in Crime
No.169 of 2023 on the file of the respondent police.

For Petitioner : Mr.P.Muthamizhselvakumar

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

ORDER



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The petitioner, who was arrested and remanded to judicial custody on 04.03.2023 for the offences punishable under Sections 8(c), 20(b) of NDPS Act in Crime No.169 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 28.02.2023 at about 14.45 hours, on receipt of a secret information about the illegal transportation of Narcotic substance, the Sub Inspector of Police along with his team went to the place of occurrence, wherein, A1 was found in illegal possession of 10 grams of methamphetamine and the respondent have arrested the accused and seized the contraband under the cover of seizure mahazar and registered a case in Crime No.169 of 2022 under Sections 8(c) r/w 22(b) Narcotic Drugs and Psychotropic Substances Act, 1985. Later, based on the confession recorded from A1, the petitioner herein/A2 had supplied the contraband to him, for which, the petitioner has been implicated in this case. Hence the case.

3. Learned Counsel for the petitioner submitted that the petitioner



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is an innocent person and he has been falsely implicated in this case, based on the confession statement recorded from A1. He further submitted that there is absolutely no recovery from the petitioner and other than the alleged confession statement which is stated to have been recorded from A1, there is no other materials to connect the petitioner in the crime. He further submitted that the petitioner was arrested on 04.03.2023, hence, he prayed for grant of bail to the petitioner.

4. The respondent has filed a detailed counter.

5. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner is the friend of A1 and A1 was arrested by the respondent Police, since he was found to be in illegal possession of 10 grams of methamphetamine and he has confessed that the petitioner is a person, who has supplied the contraband to him. He would further submit that the petitioner has got one previous case of similar in nature. Hence, he opposed for granting bail to the petitioner.

6. In reply, the learned counsel for the petitioner submitted that the



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petitioner, without prejudice to his defense and contention, is ready and willing to deposit an amount of Rs.20,000/- to any welfare scheme run by the Government and he is also ready to abide by any stringent condition that may be imposed by this Court. Hence, he prays for grant of bail to the petitioner.

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.20,000/- (Rupees Twenty Thousand only) to the credit of "**M/S The Tamil Nadu Juvenile Justice Fund**", without prejudice to their 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



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case, the submissions made by the learned counsel on either side and taking note of the fact that the petitioner has come forward to deposit an amount of Rs.20,000/- to the credit of the "**M/S The Tamil Nadu Juvenile Justice Fund**" and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

11. Accordingly, the petitioner is ordered to be released on bail on condition to make a non refundable deposit of **Rs.20,000/- (Rupees Twenty Thousand only)** to the credit of **M/S The Tamil Nadu Juvenile Justice Fund, A/C No.358001000000671, IFSC: IOBA0001288, MICR: 600020073, Indian Overseas Bank, SME Kilpauk Branch, Address: No.20, Ormes Road, Kilpauk, Chennai 10**, 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 separate 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 Special Judge for EC & NDPS Act cases, Chennai** and on further conditions that:

[a] the sureties shall affix their photographs and
Left Thumb Impression in the surety bond and the



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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., 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.

20.04.2023

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To



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1. The Special Judge for EC and NDPS Act cases,
Chennai.
2. The Inspector of Police,
PEW Anna Nagar Police Station,
Chennai.
3. The Central Prison, Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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