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Crl.O.P.No.9573 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2023

CORAM

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

Crl.O.P.No.9573 of 2023

Mohan

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
H-3, Tondiyarpet Police Station,
Tondiyarpet, Chennai.

Crime No.51 of 2023

... 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.51 of 2023 on the file of the respondent police.

For Petitioner : Ms.R.Indhumathi

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 02.03.2023 for the offences punishable under Section 8(c), 22(C), 25, 29(1) of NDPS Act, 1985 and Section 77 of the Juvenile Justice (Care and Protection of Children) Act in Crime No.51 of 2023, on the file of the respondent Police, seeks bail.

2.The case of the prosecution is that on receipt of the secret information, the respondent and his team went to the scene of occurrence, wherein, they found that the petitioner along with two other accused were found in illegal possession of 900 nos of Nitrazepam Tablets total weighing about 531 mg. Hence the case.

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 the petitioner is working as a staff in the medical shop and he has not committed any offence as alleged by the prosecution. He further submitted that the co-accused/A1 in this case has already been



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enlarged bail by this Court in Crl.O.P.No.8452 of 2023. He further submitted that the petitioner is in judicial custody from 02.03.2023 for more than 50 days. He also submitted that the parents of the petitioner are also ready to stand as surety to him, hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner along with other two other accused was found in illegal possession of 900 nos of Nitrazepam Tablets and the total weight of the contraband is 531 mg. He submitted that the contraband involved in this case is intermediate quantity. He also submitted that there is no previous case pending against the petitioner. However, he opposed for grant of bail to the petitioner.

5. 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.20,000/- to any welfare scheme run by the Government. He further stated that the petitioner is in judicial custody from 02.03.2022 and hence, he prays for grant of bail to the petitioner.



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

7. 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 his rights and contentions before the trial Court.

8. 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.

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



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10. 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 her executing a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** with **two sureties** (out of which one surety should be either father or mother of the petitioner) each for a like sum to the satisfaction of the **learned XV Judicial Magistrate, George Town, 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., until further orders;

[d] the petitioner shall not abscond either during investigation or trial;



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[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 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.

28.04.2023

vkrr

To

1. The Judicial Magistrate No.XV,
George Town, Chennai.
2. The Inspector of Police,
H-3, Tondiyarpur Police Station, Tondiyarpur
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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