

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.05.2023

CORAM

THE HON'BLE MR. JUSTICE **SUNDER MOHAN**
Crl.O.P.No.9818 of 2023

Mohammed Harif

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
H-3, Tondiarpet Police Station,
Chennai.
Crime No.51 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in Crime No.51 of 2023 pending on
the file of the respondent.

For Petitioner : Mr.C.K.M.Appati

For Respondent : Mr. E.Raj Thilak
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 02.03.2023 for the offences punishable under Sections 8(c), 22(C), 25,
29(1), 77 of Narcotic Drugs & Psychotropic Substances Act, 1985 & Section
77 of the Juvenile Justice (Care and Protection of Children) Act, 2015 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 the petitioner along with other accused were in illegal possession of Nacro pills. 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 even as per the prosecution, the alleged contraband is stated to have been recovered from one Manoj Kumar /A1 and that the said Manoj Kumar has been granted bail by this Court in Crl.O.P.No.8452 of 2023 by order dated 25.04.2023. He further submitted that there is absolutely no recovery from the petitioner and that the petitioner has been suffering incarceration for more than 50 days from 02.03.2023. Hence, he prayed for grant of bail to the petitioner.

4. Learned Additional Public Prosecutor appearing for the respondent police vehemently opposed for grant of bail to the petitioner stating that the petitioner purchased the Narco pills from the fourth accused and tried to sell it to accused 1 to 3. He would fairly concede that the contraband involved in this case is intermediate quantity and the accused

from whom the contraband was actually recovered, has been granted bail by this Court on 25.04.2023.

5. Heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor and perused the materials available on record.

6. 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 co-accused has been granted bail by this Court on 25.04.2023, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail 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 XV Metropolitan 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;

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[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;

[e] 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.

11.05.2023

bkn/ssr

To

1. XV Metropolitan Magistrate, George Town, Chennai.
2. The Inspector of Police,
H-3, Tondiarpet Police Station, Chennai.
3. The Superintendent, Central Prison, Puzhal.
4. The Public Prosecutor, High Court of Madras.

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