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CrI.O.P.No.11296 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2023

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

CrI.O.P.No.11296 of 2023

R.Rakesh
S/o P.Ramesh

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
T-3, Korattur Police Station,
Chennai.

(Crime No.1166 of 2021).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail, in C.C.No.122 of 2022, pending on
the file of the Principal Special Court of NDPS Act cases, Chennai.

For Petitioner : Mr.S.Velu

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



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Crl.O.P.No.11296 of 2023

ORDER

The petitioner, who was arrested and remanded to judicial custody on 12.12.2021, for the offences punishable under Sections 8(c), 22(c), 29(1) of NDPS Act, 1982, in C.C.No.122 of 2022, on the file of the learned Special Judge for NDPS Act cases, Chennai, seeks bail.

2. There are totally seven accused and the petitioner has been arrayed as A5. The case of the prosecution is that, on receiving secret information, the respondent police had conducted a raid at Korattur Railway Station on 11.12.2021 at about 14.30 hrs and found that A1 was in possession of 23 Nos of LSD Stamp along with a REDMI A2 mobile and A2 was in possession of 27 Nos of LSD Stamp along with OPPO F17 mobile and Rs.17,000/- cash. On the confession statement of A1 and A2, the petitioner along with other accused persons were arrested for possession of LSD Stamp. Hence, the respondent registered the case.

3. Learned counsel appearing for the petitioner submitted that this is the fifth application filed by the petitioner for bail. It is the case of the petitioner that the petitioner, who is arrayed as A5 in this case, was arrested



Crl.O.P.No.11296 of 2023

on 12.12.2021 and that even despite the lapse of 180 days, the respondent Police did not file the charge sheet and his application for statutory bail was returned by the trial Court and the petitioner had not challenged the said order of return. He further submitted that A1 namely Rohit Anbu Mohammed, who was also arrested on 12.12.2021 had filed the bail application under Section 167(2) of Cr.P.C and the trial Court had returned the same, against which, he had approached this Court in Crl.O.P.No.22914 of 2022, seeking to direct the learned trial Judge, to receive the petition dated 13.06.2022 for bail filed by him under Section 167(2) of Cr.P.C and entertain the same and to direct the release of the petitioner on default bail in this case. He further submitted that subsequently, the trial Court had taken up the petition for A1 in Crl.M.P.No.47 of 2023 and released A1 on default bail on 11.01.2023. He further submitted that subsequently, based on the direction of this Court, the co-accused in this case namely Kishansaran/A7, had approached this Court in Crl.O.P.No.3947 of 2023 and this Court, by an orders dated 21.02.2023, had granted bail to A7. Later, the two other co-accused viz., A2, A6 had approached this Court in Crl.O.P.Nos.7938 and 5142 of 2023 and this Court, by orders dated 19.04.2023 and 06.04.2023, had granted bail to A2 and A6. He further submitted that the petitioner/A5,



CrI.O.P.No.11296 of 2023

who was found in possession of 10 LSD Stamps, has not been granted bail.

He further submitted that the petitioner is in custody for more than 550 days and all the witnesses in this case are official witnesses. He also submitted that despite the charge sheet has been filed on 23.06.2022 and the case being taken up for trial in C.C.No.122 of 2022, there is no progress in trial and the respondent Police have not commenced the trial till date. Thereby, the present petition for bail is pressed on the ground of parity and also on the ground of delay in trial and the long incarceration.

4. Learned Government Advocate (CrI.Side) appearing for the respondent police submitted that the earlier application for bail filed by the petitioner was dismissed by this Court in CrI.O.P.No.6471 of 2023 on 23.03.2023. However, he fairly submitted that all the co-accused in this case except A3, have been granted bail by this Court and they have been regularly appearing before the trial Court and all the witnesses in this case are official witnesses. However, he opposed for grant of bail to the petitioner.

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



Crl.O.P.No.11296 of 2023

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and that the co-accused in this case have been released on bail and further, despite all the witnesses being official witnesses and there is no progress in trial and the petitioner is still languishing in jail for more than 550 days, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, 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 Principal Special Judge for 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 Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[b] the petitioner shall report before the learned Principal Special Judge for NDPS Act cases, Chennai, on all working days for a period of two weeks and thereafter, on the date fixed by the learned trial Judge;



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Crl.O.P.No.11296 of 2023

[c] the petitioner shall not abscond during trial;

[d] the petitioner shall not tamper with evidence or witness during 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.

07.06 .2023

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To

1. The Principal Special Judge for NDPS Act cases,
Chennai.
2. The Inspector of Police,
T-3, Korattur Police Station,
Chennai.
3. The Puzhal Jail,
Chennai.
4. The Public Prosecutor, High Court of Madras.



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Crl.O.P.No.11296 of 2023

A.D.JAGADISH CHANDIRA.,J.

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Crl.O.P.No.11296 of 2023

07.06.2023