



Crl.O.P.No.12134 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

CORAM

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

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Gokulan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
R2 Kodambakkam Police Station,
T.Nagar, Chennai.

(Crime No.81 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in C.C.No.203 of 2022 on the file of
the Principal Special Court under NDPS Act cases, Chennai.

For Petitioner : Mr.N.Nishar Ahamed

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 18.03.2022 in Crime No.81 of 2022 registered for the offence under Sections 8(c) r/w 22(a), 22(c), 29(1) of NDPS Act and Sections 465, 468, 472 of IPC, on the file of the Principal Special Court under NDPS Act cases, Chennai, seeks bail.

2.The case of the prosecution is that the respondent Police received a secret information that some of the accused were selling drugs near Trustpuram Play Ground at Kodambakkam. Based on the information, the respondent along with his team went to the place of occurrence and apprehended one Kishore Kumar/A1 and from him 150 tablets of Nitravet (each contains 10 mg) and 100 tablets of Tydol (each contains 100 mg). Based on the confession recorded from A1, one Poongundran was arrested and from his possession, 4620 Nitravet tablets, 2220 Tydol tablets, 145 unwanted kit, 130 Alprasafe tablets and also recovered Laptop and other electronic devices. Hence the case.

3. The learned counsel appearing for the petitioner would submit



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that the petitioner is an innocent person and the petitioner and other persons, who are present in the room were also arrested. He would further submit that the respondent has completed the investigation and filed the final report and the case is now pending trial in C.C.No.203 of 2022 before the Principal Special Court under NDPS Act cases, Chennai. He would further submit that the main accused, from whom, the alleged contraband has been recovered, was released on statutory bail in Crl.M.P.No.2491 of 2023 by the learned Principal Special Judge under EC & NDPS Act cases, Chennai. He would further submit that the co-accused, who were present along with the petitioner in the same room, have been granted bail by this Court in Crl.O.P.Nos.23360, 27869 of 2022 dated 23.12.2022, 17.11.2022 respectively. He would also submit that the co-accused/A2 has been granted bail by the Principal Special Court under EC & NDPS Act cases, Chennai in Crl.M.P.No.1851 of 2023 dated 28.03.2023. He would further submit that though this is the second application for bail and the earlier application for bail filed by the petitioner in Crl.O.P.No.29735 of 2022 was dismissed on 01.12.2022, without reference to Section 37 of the NDPS Act. He would also submit that the similarly placed accused have been enlarged on bail by this Court and thereby, the petitioner is also entitled for bail on parity. Hence, he



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prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioner was found to be present in a room along with the main accused Poongundran, from whom, the contraband and other electrical devices have been recovered. He would further submit that the similarly placed co-accused. He would further submit that this Court while dismissing the earlier application for bail filed by the petitioner in Crl.O.P.No.29735 of 2022 has not formed any opinion with regard to the compliance of Section 37 of the NDPS Act. He would also submit that the final report has been filed and the case is now takenup for trial in C.C.No.203 of 2022 before the Principal Special Court under NDPS Act cases, Chennai. Hence, he opposed for grant of bail to the petitioner.

5.At this juncture, the learned counsel for the petitioner would submit that without prejudice to her defense and contention, is ready and willing to make a non-refundable deposit of Rs.25,000/- to any welfare scheme run by the Government. He further stated that the petitioner is ready to abide by any other stringent conditions that may be imposed by this Court.



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Hence, he prays for grant of bail to the petitioner.

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

7. On perusal of the records, it is seen that the similarly plaed accused have been granted bail by this Court as well as by the Special Court in the orders referred above. Though the earlier application for bail in Crl.O.P.No.29735 of 2022 filed by the petitioner was dismissed on 01.12.2022, there is no reference to Section 37 of the NDPS Act. This Court is of the opinion that the petitioner is entitled for bail on parity with condition.

8. Accordingly, the petitioner is ordered to be released on bail on condition to make a non-refundable deposit of **Rs.25,000/- (Rupees Twenty Five Thousand only)** directly to the credit of "**Manonmani Trust, Account Number : 9945983362, IFSC Code : KKBK0000469, Kotak Mahindra Bank, Anna Nagar Branch**", without prejudice to her rights and



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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 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 Metropolitan Magistrate No.XVII, Saidapet**, 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 under EC & NDPS Act cases, Chennai, on all working days at 10.30 a.m., until further orders;

[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]***;



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[f] If the accused thereafter abscond, a fresh FIR
can be registered under Section 229A IPC.

12.06.2023

vkr

To

1. The Principal Special Court under EC & NDPS Act cases,
Chennai
- 2.The Metropolitan Magistrate No.XVII, Saidapet.
3. The Inspector of Police,
R2 Kodambakkam Police Station,
T.Nagar, Chennai.
4. The Central Prison,
Puzhal.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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