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Crl.O.P.No.12960 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2023

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

Crl.O.P.No. 12960 of 2023

Robert

... Petitioner

Vs.

State rep by
The Inspector of Police
H-6, R.K.Nagar Police Station,
Chennai.

Crime No.784 of 2022

... Respondent

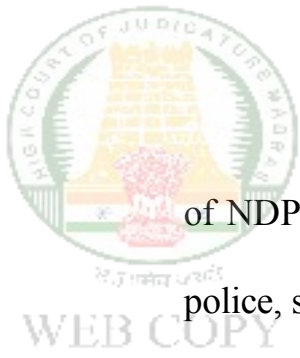
PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.784 of 2022 on the file
of the respondent police.

For Petitioner : Mr.M.Illiyas

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 18.12.2022 for the offences punishable under Sections 8(c), 22(c), 29(1)



of NDPS Act, 1985, in Crime No.784 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 12.12.2022, at about 09.00 hours, the Sub-Inspector of Police, on receipt of a secret information about the illegal possession of narcotic substances, had entered the same in the General Diary and went to the scene of occurrence, i.e., below Meenambal Bridge, R.K.Nagar, Chennai, along with his police team, he had seen five persons standing with black plastic covers in hand. After seeing the police, A4 and A5 started to run away from the scene of occurrence. Immediately, the Sub Inspector of Police secured A1 to A3 and from them, 915 tablets of Nitravet-10 (weighing about 506.91 grams), which is a commercial quantity, were seized under the cover of seizure mahazar in the presence of witnesses and arrested the accused 1 to 3. Further, during the course of investigation, A1 to A3 have confessed that A4 and A5 were having 300 tablets of Nitravet-10 and they have escaped from the scene of occurrence. The further investigation reveals that A4 and A5 had handed over the contraband to some other persons and they were arrested on 18.12.2022. Hence the case.



3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case, based on the confession alleged to have been recorded from A1 to A3. He would further submit that A1 to A3 and the petitioner are absolute strangers and the name of the petitioner does not find place in the First Information Report. He would fairly admit that the petitioner has several cases pending against him under IPC before H6, R.K.Nagar Police Station and only in order to keep the petitioner under fetters, the respondent has implicated the petitioner in this case based on the confession statement recorded from the arrested accused, who have been arrested with contraband. He would also submit that the petitioner is in custody from 18.12.2022 and that the major part of the investigation has been completed. Hence, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner is an associate of A1 to A3 and on receipt of specific information, the respondent had gone to the place of occurrence namely below Meenambal Bridge, R.K.Nagar, Chennai, and they had seen five persons standing there and on seeing the police, two persons



ran away from the scene of occurrence. A1 to A3 were arrested and they had confessed that the petitioner is also an associate of them and from A1 to A3, 915 tablets of Nitrovet-10, which is a commercial quantity were confiscated. He would further submit that the petitioner is a history sheeted rowdy and one previous case was registered by the respondent Police in Crime NO.1187 of 2019 for the offence under NDPS Act. Hence, he prayed for grant of bail to the petitioner.

5. In reply, the learned counsel for the petitioner would submit that even in the earlier case, the petitioner was implicated only based on the confession and there is no recovery even in the earlier case. He would also submit that without prejudice to his defence, the petitioner is ready and willing to deposit a substantial amount to any welfare scheme run by the Government as may be directed by this Court. Hence, he prayed for grant of bail to the petitioner.

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



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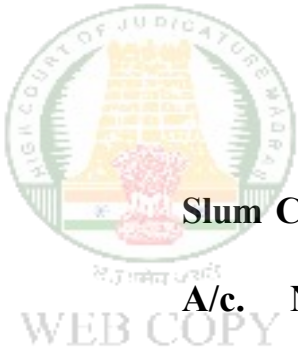
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7. On considering the voluntary submission made by the learned counsel for the petitioners, the petitioner is directed to deposit a sum of Rs.20,000/- (Rupees Twenty Thousand Only) to the credit of **"Boys and Girls Club, Cornesan Nagar Slum Clearance Board, Korukkupet, Chennai -21"** without prejudice to his rights and contentions before the trial Court.

8. Merely, because the petitioner has deposits 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. Considering the above facts and circumstances of the case, the submissions made by the learned counsel on either side and the period of incarceration undergone by the petitioner, this Court is inclined to grant of bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is directed to make a non refundable deposit of Rs.20,000/- (Rupees Twenty Thousand Only) by way of **RTGS/NEFT to the credit of "Boys and Girls Club, Cornesan Nagar**



Slum Clearance Board, Korukkupet, Chennai 21, State Bank of India,

A/c. No.10239302723 IFSC Code:SBIN0003306, MICR Code:

600002055" 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 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.XV, 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;

[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



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petitioners 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.

14.06.2023

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To

1. The Metropolitan Magistrate No.XV, George Town, Chennai.
2. The Inspector of Police
H-6, R.K.Nagar Police Station,
Chennai.
3. The Central Prison, Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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