



Crl.OP.Nos.15524 & 15528 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.OP.Nos.15524 & 15528 of 2023

Crl.OP.No.15524 of 2023

Kishore

... Petitioner/A6

Vs.

State Rep. by
The Inspector of Police,
R-2 Kodambakkam Police Station,
Chennai
crime No.81 of 2022

... Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to enlarge the petitioner on bail pending trial in CC.No.203 of
2022 on the file of the Principal Special Judge, NDPS Act, Chennai.

For Petitioner : Mr.T.S.Sasi Kumar

For Respondent : Mr.S.Sugendran,
Additional Public Prosecutor



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Crl.OP.No.15528 of 2023

Muthu Pandi

... Petitioner/A4

Vs.

The State
Rep. by Inspector of Police,
R-2 Kodambakkam Police Station,
T.Nagar, Chennai
crime No.81 of 2022

... Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to enlarge the petitioner on bail pending trial in CC.No.203 of
2022 on the file of the Principal Special Court under NDPS Act,
Chennai.

For Petitioner : Mr.N.Nishar Ahamed

For Respondent : Mr.S.Sugendran,
Additional Public Prosecutor

COMMON ORDER

The petitioner in Crl.OP.No.15524 of 2023, who was arrested
and remanded to judicial custody on 17.03.2022 for the offences
punishable under Sections 8 (c), 22(a), 22 (c), 29(1) of NDPS Act and



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Sections 465, 468, 472 of IPC in Crime No.81 of 2022 on the file of the respondent police pending trial in CC.No.203 of 2022 on the file of the Principal Special Judge, NDPS Act, Chennai, seeks bail. The petitioner in Crl.OP.No.15528 of 2023, who was arrested and remanded to judicial custody on 18.03.2022 for the offences punishable under Sections 8 (c), 22(a), 22 (c), 29(1) of NDPS Act, 1985 and Sections 465, 468, 472 of IPC in Crime No.81 of 2022 on the file of the respondent police pending trial in CC.No.203 of 2022 on the file of the Principal Special Court under NDPS Act, Chennai, seeks bail.

2. The case of the prosecution is that on 17.03.2022, the respondent Police received a secret information that near Trustpuram Playground, the accused persons A5 and A6 are selling drug tablets. On receipt of the same, a team of Police went to the place of occurrence and apprehended A5 and A6. On enquiry, they informed their address and after following the procedure as contemplated under Section 50 of NDPS Act, seized the contrabands viz, Nitroxit-10 mg, Alpraxafe tablets, Unwanted Kit and Tydol tablets from A5 and A6. Based on their



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confession, the accused A7 was arrested and remanded to judicial custody. The 1st accused along with the other accused were running a Medical Shop in the name of “Shri Ram Medicos” in Haryana District. She is a main supplier and she supplied medicine all over India in the name of “Voiz Med Pharma Pvt.Ltd”. The second accused purchased drugs from the 7th accused through India Mart online company. The 7th accused delivered the drugs through courier. Hence, the complaint.

3. The learned counsel for the petitioner in Crl.OP.No.15524 of 2023 submitted that the petitioner is arrayed as A6. Even according to the case of the prosecution, the petitioner was found in possession of 100 tables of Tydol, 10 tablets of Nitravit, that too along with A7. The quantity seized from the petitioner is only 83 grams of Nitrazepam, which is an intermediate quantity. All other co-accused persons were released on bail except the petitioner and A4. The petitioner was arrested and remanded to judicial custody on 17.03.2022 and now respondent has filed final report and the same has been taken cognizance by the trial court i.e. Principal Special Judge, NDPS Court, Chennai.



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4. The learned counsel for the petitioner in Crl.OP.No.15528 of 2023 submitted that the petitioner is arrayed is A4, who has been implicated as an accused only on the confession statement of the co-accused. As per Forensic Laboratory Report, the seized contraband does not come under the narcotic substance except Nitrazepam and Alprazolem. That apart, already this Court granted bail to A1, A2, A3, A5 and A7. Even according to the case of the prosecution, no contraband was seized from the the petitioner.

5. The Additional Public Prosecutor submitted that though other accused persons were released on bail, the petitioners are not entitled for bail since they were found in possession of contraband and it is a commercial quantity. Therefore, there is ban under Section 37 of NDPS Act for granting bail to them. Now the respondent completed investigation and filed final report, which has been taken cognizance in CC.No.203 of 2022 and it is pending for trial. Now the case has been posted for framing of charges.



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6. It is seen that the first accused in the charge sheet is running a medical company called M/s.Shri Ram Medicos at Haryana. According to the case of the prosecution, he is the main supplier and he used to supply drugs all over India in the name and style of M/s.Shri Ram Medicos. He supplied contraband to accused 2 to 5. However, there was no recovery from the said accused and contraband was found in possession of A2 to A5. Therefore, this Court considered and granted bail. Further, A6 and A7 were found in possession of Nitrovit-10 mg, Alprax tablets, Unwanted Kit and Tydol tablets and it is intermediate quantity. However, on the confession of the co-accused, all the accused persons were jointly charged since all were under conscious and constructive possession of contraband. However, the other co-accused persons were released on bail by this Court.

7. Considering the above facts and circumstances of the case and also as the petitioners made out *prima facie* case to satisfy the twin conditions as contemplated under Section 37 of NDPS Act, this Court is inclined to grant bail to the petitioners.



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8. Accordingly, each of the petitioners shall donate a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of “LOVERS OF TRUTH, UNITY & SERVICE”, A/c. No.611901075128, IFS Code: ICIC0006119, Cell No.9600416555 by producing his Aadhar number, PAN number and address. On such donation, each of the petitioners is ordered to be released on bail on their executing a separate 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, NDPS Act, Chennai in respect of petitioner in Crl.OP.No.15524 of 2023 and to the satisfaction of the XVII Metropolitan Magistrate, Saidapet in respect of petitioner in Crl.OP.No.15528 of 2023 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] each of the petitioners shall donate a sum of Rs.1,00,000/- (Rupees One Lakh only), to the credit of the “LOVERS OF TRUTH, UNITY & SERVICE”, A/c. No.611901075128, IFS Code: ICIC0006119 by producing his Aadhar number, PAN number and address. The photocopy of the acknowledgment for the receipt of such donation (as



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sent by the said Institution) shall be produced before the concerned Magistrate at the time of executing the bond;

[c] the petitioners shall report before the trial court daily at 10.30 a.m. and 05.30 p.m. until further orders

[d] the petitioners shall not abscond either during investigation or trial.

[e] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the 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].

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

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G.K.ILANTHIRAIYAN, J.

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To

- 1.The learned Principal Special Judge,
NDPS Act, Chennai
- 2.The learned XVII Metropolitan Magistrate,
Saidapet
- 3.The Inspector of Police,
R-2 Kodambakkam Police Station,
Chennai
- 4.“LOVERS OF TRUTH, UNITY & SERVICE”
LOTUS Home,
855, Rohini Gardens,
Periya Pudur,
Salem 636 016
- 5.Central Prison,
Puzhal-II,
Chennai
- 6.The Public Prosecutor,
High Court of Madras

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