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Crl.OP.No.16201 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

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

Crl.OP.No.16201 of 2023

G.Vignesh @ Vicky

..Petitioner

Vs.

The State
represented by the Inspector of Police,
H-1, Old Washermenpet Police Station,
Chennai.

..Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. pleaded to enlarge the petitioner on bail in C.C.No.338 of 2022 on the file of the Principal Special Judge under EC and NDPS Act, Chennai, in Crime No.310 of 2022 on the file of the respondent Police.

For Petitioner : Mr.N.Nishar Ahamed

For Respondent : Mr.R.Kishore Kumar
Government Advocate (Criminal Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 19.04.2022 at the hands of the respondent police for the offences punishable under Sections 147, 148, 341, 323, 324 and 307 IPC and Sections 8(c) r/w



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22(C) and 29(i) of NDPS Act, 1985, in C.C.No.338 of 2022 on the file of the Principal Special Judge under EC and NDPS Act, Chennai, in connection with Crime No.310 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner along with other accused persons were found in possession of 25 tablets of MDMA Ecstasy. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. There are totally 10 accused, in which the petitioner is arrayed as A1. As per the confession statement of the co-accused, the petitioner has been falsely implicated in this case. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Criminal Side) would submit that there are totally 10 accused, in which the petitioner is arrayed as A1. The petitioner, along with other accused persons were found in possession of 25 tablets of MDMA Ecstasy. Hence, he vehemently opposed grant of bail to the petitioner.



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5. It is seen that the respondent registered the FIR in Crime No.310 of 2022 for the offences under Sections 147, 148, 341, 323, 324 and 307 IPC, on the complaint lodged by one Gopinath, alleging that he was attacked by the accused with knife. There are totally 10 accused, in which the petitioner is arrayed as A1. The FIR was registered at about 02.30 p.m, on 19.04.2022. The petitioner was arrested at about 06.30 p.m, while he was standing opposite to Rajiv Gandhi Government Hospital, Chennai. Thereafter, he voluntarily handed over 25 tablets of MDMA Ecstasy to the respondent Police. Therefore, on production of MDMA tablets, the respondent altered the offences, thereby added the offences under Sections 8(c) r/w 22(C) and 29(i) of NDPS Act, 1985.

6. It is also seen that the petitioner had already involved in six previous cases within the jurisdiction. Therefore, the petitioner has been falsely implicated in this case. In fact, the petitioner had also sustained injury during the occurrence and as such he went for treatment to Rajiv Gandhi Government Hospital, Chennai. Even according to the case of the prosecution, the petitioner himself had handed over the contraband to the respondent. That apart, the respondent failed to follow the procedure as contemplated under Section 57 of



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NDPS Act. The petitioner has not involved in similar type of offence. Since he is an habitual offender, now he has been falsely implicated in this case. Therefore, the petitioner has made out a prima facie case to satisfy the twin conditions as contemplated under Section 37 of the NDPS Act.

7. Taking into consideration the facts of the case and the submissions made by the learned counsels and also taking note of the fact that the petitioner is in judicial custody from 19.04.2022, this Court is inclined to grant bail to the petitioner with certain conditions.

8. 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 **XV Metropolitan Magistrate, GT Court** 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 Principal Special Judge under EC and NDPS Act, Chennai in C.C.No.338 of 2022 daily at 10.30 a.m. and 5.30 p.m., until further orders.

[c] the petitioner shall not abscond either during investigation or trial.



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[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 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 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 Principal Special Judge under EC and NDPS Act, Chennai.
2. The XV Metropolitan Magistrate, GT Court.
- 3.The Inspector of Police,
H-1, Old Washermenpet Police Station,
Chennai.
4. Puzhal Prison,
Chennai.
- 5.The Public Prosecutor,
High Court of Madras.

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