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CrI.OP.No.16990 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2023

CORAM

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

CrI.OP.No.16990 of 2023

M.Bala Subramaniam @ Bala Petitioner

Vs

The State represented by
The Inspector of Police,
H-1, Washermenpet Police Station,
Chennai.
(Crime No.256 of 2022)

....

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.384 of 2022 on the file of the learned Principal Special Judge for EC and NDPS Act Cases, Chennai.

For Petitioner : Mr.G.Prabhakaran

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 02.04.2022 at the hands of the respondent police for the



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offences punishable under Sections 8(c) r/w Sections 21(b), 22(c), 23(c) and 25 of NDPS Act in C.C.No.384 of 2022, on the file of the Principal Special Judge for EC and NDPS Act Cases, Chennai, in connection with Crime No.256 of 2022, seeks bail.

2. The case of the prosecution is that the petitioner was found in illegal possession of 7.60 grams of Methamphetamine and 12 Nos of LSD Stamps weighing 0.21 grams. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and a false case has been foisted against the petitioner for the reason that the petitioner along with one Shiva Devi became friends and started business. In which, the said Shiva Devi was in due of huge amount to the petitioner. In fact, her husband is working as Sub Inspector of Police in N2 Police Station, utilizing the said circumstances, the said Shiva Devi refused to settle the amount. Hence, on 11.03.2022, the petitioner had lodged a complaint against Shiva Devi. Only for the said reason, the petitioner was wrongly implicated by the respondent police, as if, the petitioner was in



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possession of the said contraband, which merely a commercial quantity.

In fact, on 31.03.2022, he was kidnapped by the police personnel in a civil dress and the petitioner was put in illegal detention and thereby a false case has been foisted. He further submitted that in the same car, one Neelambari, who is a friend of the petitioner said to have sought employment from the petitioner. Only thereafter, false case has been foisted, as if the petitioner was in possession of the alleged contraband. Hence, he prays for grant of bail to the petitioner

4 . The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner was found in illegal possession of 7.60 grams of Methamphetamine and 12 Nos of LSD Stamps weighing 0.21 grams. He further submitted that this is the third bail application filed by the petitioner. Earlier petitions filed by the petitioner before this Court in Crl.M.P.No.15735 of 2022, Crl.M.P.No.19536 of 2022 and Crl.M.P.No.22894 of 2022 dated 18.07.2022, 22.08.2022 and 21.09.2022 respectively. Hence, he vehemently opposed to grant bail to the petitioner.



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5. Heard both sides and perused the materials available on record.

6. According to petitioner, he is a sole accused. Even according to the prosecution, in the routine check up, the Sub Inspector of Police, patrol team made search on vehicle and found 7.60 grams of Methamphetamine. Thereafter, the respondent was on the routine check up, the petitioner was served with notice under Section 50 of the NDPS Act to search the petitioner and the car. The petitioner himself handed over a red colour bag containing 7.60 grams of Methamphetamine. The respondent also searched in the purse of the petitioner and found 12 Nos of LSD Stamps weighing 0.26 grams. When the respondent made routine check up, they need not issue notice under Section 50 of the NDPS Act.

7. In fact, already the petitioner lodged a complaint on 02.04.2022 against the wife of the Inspector of Police, alleging about the money transaction and thereby she was cheated huge amount. A false case has been foisted as against the petitioner, as if he was found in



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possession of 7.60 grams of Methamphetamine and 12 Nos of LSD Stamps weighing 0.21 grams. In fact, along with the petitioner, one lady was also in the car by name Neelambari. However, she was not implicated as an accused. On the other hand, she was produced before the All Women Police Station, Washermenpet, Chennai and registered an FIR as against the petitioner for the offence under Sections 376, 506(i) of IPC and 4(1), 5(1)(a) of ITP Act in Crime No. 5 of 2022. The Inspector of Police, All Women Police Station, Chennai, alleged that the petitioner administered some drug and after becoming unconscious, he committed rape on the said Neelambari.

8. However, before the Trial Court, the said Neelambari filed an intervene petition and supported the case of the petitioner. The victim further stated that she never lodged any complaint and she was not subjected to rape by the petitioner. That apart, no statement was recorded from the said victim. It shows that in order to escape from the complaint lodged as against the wife of the Inspector of Police, a false case has been foisted as against the petitioner, as if he was found in possession of 7.60 grams of Methamphetamine and 12 Nos of LSD Stamps. If the



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petitioner, along with the said Neelambari, was found in possession of contraband, the respondent definitely would have registered FIR as against both the persons. Conveniently, the respondent left out the said Neelambari and she was shown as witness in this case. Therefore, the alleged possession of contraband is not believable one and the petitioner has made out a prima-facie case in order to satisfy the twin conditions as contemplated under Section 37 of the NDPS Act.

9. 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 02.04.2022, this Court is inclined to grant bail to the petitioner with certain conditions.

10. 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 EC and 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



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their Aadhar card or Bank pass Book to ensure their identity.

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[b] the petitioner shall report before the learned Principal Special Judge for EC and NDPS Act Cases, Chennai in C.C.No.384 of 2022, daily at 10.30 a.m. and 4.30 p.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 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 for EC and NDPS Act Cases, Chennai.
- 2.The Inspector of Police,
H-1, Washermenpet Police Station,
Chennai.
3. Central Prison,
Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court of Madras.

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