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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 13/02/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.23302 of 2022

Meenakumar @ Meenu

... Petitioner/Sole Accused

Vs

The State rep.by,
Inspector of Police,
Mudukulathur Police Station,
Ramanathapuram Disrict.
in Crime No.135/2022.

... Respondent/Complainant

For Petitioner : M/s.Shankar Ganesh R,
Advocate.

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No.135 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested and remanded to judicial custody on 05.06.2022 for the offences punishable under Sections 8(c)r/w.22(C) of NDPS Act r/w.section 20 and 30 of Arms Act,1959 in Crime No.135 of 2022 on the file of the respondent police, seeks bail.

2. Notice was issued to the learned Additional Public Prosecutor and counter was filed by the prosecution.

3. The case of the prosecution is that based on secret information on 05.06.2022 at about 11.00 a.m., the respondent police



conducted surveillance and at that time they saw a person doing something in the thorn bush and ran away. The police caught the petitioner and found that the petitioner was found in possession of 1 kg of drug tablets and a iron sword and on seeing he had thrown the contraband inside the thorny bush, hence the case.

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4. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case and he is no way connected with the crime and nothing was recovered from him and there is no material on record to connect the petitioner with the crime and that the mandatory conditions under the NDPS act were not complied with by the respondents. The petitioner is in custody from 05.06.2022 and the petitioner has no criminal antecedents and the long incarceration before the trial would cause grave injustice to the petitioner and his family members and that the petitioner is ready to abide by any conditions that shall be imposed by this Court. Hence he seeks bail.

5. The learned Additional Public Prosecutor would submit that the accused persons were found in possession of 1kg of Diazepam Tablet Powder, which falls under the category of commercial quantity. and if he is released on bail there is every possibility of absconding and committing offence of similar nature and there is every possibility of him interfering with further investigation. He would further submit that the petitioner was found in possession of 1kgs of drug tablets and the said quantity involved in the case is commercial quantity which attracts Section 37 of NDPS Act. Hence he strongly opposed to grant bail to the petitioner/accused.

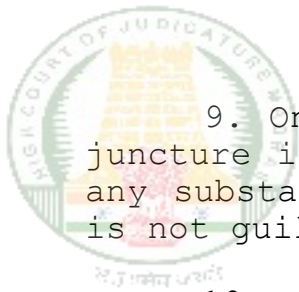
6. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and perused the materials available on record.

7. The contraband involved in this case is one kg of Diazepam Tablet powder. It is a psychotropic substance as per Schedule -IV. As per schedule -IV, possession of 500gms of Diazepam tablet powder is a commercial quantity. Hence the petitioner has to satisfy three conditions under section 37 of NDPS Act:

- a) opportunity to the Public Prosecutor to oppose the bail
- b) *prima facie* satisfaction regarding availability of ground for believing that the accused is not guilty.

- c) he is not likely to commit any offence while on bail.

8. All submission of the petitioner with regard to the falsity of the case and against the possession of illicit articles and culpable mental state are grounds for defence which can be kept open for consideration at the time of the trial.



9. On the broad probabilities of this case this Court is juncture is unable to record its satisfaction on the existence of any substantial and probable cause for believing that the accused is not guilty of the offences charged.

10. This Court cannot at this stage conclude that the accused is not likely to commit any offence while on bail, thereby the condition imposed for grant of bail operates against the petitioner thereby the petition is liable to be dismissed.

11. In the result, the Criminal Original Petition stands dismissed.

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

2 THE INSPECTOR OF POLICE,
MUDUKULATHUR POLICE STATION,
RAMANATHAPURAM DISTRICT.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.R.SHANKAR GANESH, Advocate (SR-2233[I] dated
13/02/2023)

ORDER

IN

CRL OP(MD) No.23302 of 2022

Date :13/02/2023

RK/BUC/SAR-3 (02/03/2023) 3P/5C