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CRL O.P. No.30457 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.12.2024

CORAM

The Hon'ble Mr. Justice P.DHANABAL

CRL OP.No.30457 of 2024

S. Rakesh @ Rocky ... Petitioner / Accused-10

Vs

State rep. by:-

The Inspector of Police,
H-3 Tondiarpet Police Station,
Tondiarpet District.
[Cr. No.295 of 2024]

... Respondent

PRAYER:- The Criminal Original Petition is filed under Section 483 of B.N.S.S., praying to grant bail to the petitioner/Accused-10 in Cr. No.295 of 2024 on the file of the respondent police.

For Petitioner : Mr. S. Muthu Selvam

For Respondent : Mr. S. Balaji,
Government Advocate
[Criminal side]

ORDER

The petitioner / Accused-10 who was arrested and remanded to judicial custody on 27.09.2024 for the offences punishable under



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Sections 8(c) read with 22(C) and 29(1) of Narcotics Drugs and Psychotropic Substances Act in Cr. No.295 of 2024 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 15.06.2024, the accused were found in illegal possession of 1080 Nitrazepam tablets of Nitrazepam each weighing 10 mg. Hence the case.

3. The learned counsel for the petitioner would contend that the respondent police have registered a false case against the petitioner for the offences punishable under Sections 8(c) read with 22(C) and 29(1) of Narcotics Drugs and Psychotropic Substances Act. The petitioner is an innocent and he is nothing to do with the alleged offences. He was not present at the place of occurrence. He had only handed over his ATM card to his friend for his mother's medical treatment. No recovery of contraband was made from this petitioner. He is in judicial custody from 27.09.2024. Therefore prayed to grant bail to the petitioner.

4. The learned Government Advocate (criminal side) would submit that on 15.06.2024, the accused were found in illegal possession of 1080



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Nitrazepam tablets of Nitravet each weighing 10 mg for the selling the same in the local area to the college students and general public for personal gain. This petitioner is A10. From the confession statement of the co-accused A1 to A4, this petitioner/A10 is arrayed as an accused. This petitioner has also participated in the crime and he has given his ATM card for money. All the accused colluded with each other and separated the contraband and illegally sold it and earned money. Hence, he strongly opposed to grant bail to the petitioner.

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

6. Considering the rival submissions made on either side, considering the nature of offences, considering the fact that even according to the prosecution, the entire contraband was recovered only from the accused A1 to A4 and the case of the prosecution that this petitioner has supplied money to procure the contraband, cannot be decided at this stage and no contraband was recovered from this petitioner and even according to the prosecution, this petitioner is



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arrayed as an accused based on the confession statement of the co-accused, there is no previous case pending against this petitioner and also considering the incarceration period of the petitioner from 27.09.2024, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

[a] Accordingly, the petitioner is ordered to be released on bail on condition to execute 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 **XV Metropolitan Magistrate, George Town, Chennai** and on further conditions that:

[b] the petitioner shall report before the concerned NDPS Court on all working days at 10.30 a.m. until further orders;

[c] the petitioner shall not commit any offence similar to the offence of which she is accused, or suspected, or of the commission of which she is suspected;

[d] the petitioner shall not abscond either during investigation or



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[e] the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade her from disclosing such facts to the Court or to any police officer or tamper with the evidence;

[f] On breach of any of the aforesaid conditions, the learned Judicial 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].

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

20.12.2024

index: Yes/No

Internet: Yes/No

Speaking/Non Speaking order

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To

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1. The XV Metropolitan Magistrate, George Town, Chennai
2. The Public Prosecutor, Madras High Court, Chennai.
3. The Inspector of Police, H-3 Tondiarpet Police Station, Tondiarpet District.
4. The Superintendent of Police, Central Prison, Puzhal-II, Chennai.

P.DHANABAL,J
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