



Crl.O.P.No.287 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **24.01.2024**

CORAM

THE HON'BLE MR. JUSTICE **C.V.KARTHIKEYAN**

Crl.OP.No.287 of 2024

Muthu @ Desamuthu

...Petitioner

Vs.

State rep by,
The Inspector of Police,
N-4 Fishing Harbour Police Station,
Chennai
(Crime No.105 of 2022)

...Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in FIR in Crime No.105 of 2022 on the file of the respondent police.

For Petitioner : Mr.G. Ezhilbalaji

For Respondent : Mr.L. Baskaran
Government Advocate (Crl.Side)

ORDER

The petitioner/A2 who was arrested by the respondent police through Pt warrant on 01.11.2022 for the offences punishable under Sections 8(c), 22(c), 29(1) of NDPS Act 1985 in Crime No.105 of 2022 seeks bail.



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2. The case of the prosecution is that on 11.06.2022 at about 13.10 hours, Tr.Boobalan, Sub Inspector of Police on receipt of secret information about illegal sale of drug tablet at Nagooran Thottam, entered the same in the General Diary and after obtaining permission, he along with his party went to the scene of occurrence. At that time, three unknown persons were standing with black color bag and on seeing the police, they tried to escape from that place. Immediately the police caught hold of two of them and yet another person escaped from that place and subsequently, during search, they found MDMA-ecstasy tablets-21 nos. weighing 10.15 grams from the accused Stephen @ Moony Thalai Stephen/A1. The said contra band were seized under seizure mahazar in the presence of witnesses. On enquiry with A1 they came to know that the person who had escaped from the scene of occurrence is the present petitioner herein. Based on the above a case was registered in N4 Fishing Harbour Police Station in Crime No.105 of 2022 under Sections 8(c), 22(c), 29(1) of NDPS Act 1985

3.The learned counsel for the petitioner/A2 would submit that the petitioner is an innocent person and he has been falsely roped in this case. He would submit that though there is a connection between A1 and A3 who are



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being the co-accused in several cases, the petitioner/A2 is not at all connected with A1 and A3. He would submit that based on the confession of the co-accused, the petitioner has been arrested and he has been in custody for the past four months. He would submit that the respondent after completion of investigation have filed the final report and even in the final report other than the statements recorded from A1 and A3 there is absolutely no material to connect the petitioner with the other accused and there is no recovery from the petitioner. **He further submitted that this Court has already granted bail to the co-accused in Crl.O.P.No.5058 of 2023 vide order dated 29.03.2023.** Hence he prays to grant bail to the petitioner.

4. The learned Government Advocate would submit that the petitioner along with other accused were found at the scene of occurrence and on seeing the police, the petitioner ran away and escaped. He would submit that A1 and A3 have confessed that the petitioner is the person who ran away from the scene of occurrence. He would submit that from A1, 21 Nos of MDMA ecstasy tablets weighing 10.15 ram has been recovered which is a commercial in nature and he was arrested. Further, the chemical report obtained on 22.02.2022 has also confirmed that the material is MDMA.



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However, he would submit that other than the confession recorded from A1 and A3, there is no material to prove that the petitioner had involved in the offence.

5. Heard the learned counsel for the petitioner and the learned Government Advocate and perused the materials available on record.

6. Taking all the factors into consideration, this Court is of the opinion that the petitioner has satisfied the condition required under Section 37 of NDPS Act for grant of bail and also considering the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions.

7. 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 XVI Metropolitan Magistrate, George Town** and on further conditions that:



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[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 respondent Police, daily at 10.00 a.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.

24.01.2024

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C.V.KARTHIKEYAN, J.

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To

1. The **XVI Metropolitan Magistrate, George Town**

2.The Inspector of Police,
N-4 Fishing Harbour Police Station,
Chennai

3.Central Prison, Puzhal

4.The Public Prosecutor, Madras High Court.

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