



CRL OP(MD) No.16525 of 2023

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

Tuesday, the Second day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.16525 of 2023

M.RAMESH

... Petitioner / Accused No.1

Vs

THE INSPECTOR OF POLICE
KODAIKANAL POLICE STATION,
KODAIKANAL,
DINDIGUL DINDIGUL,
(CRIME NO.194/2023)

... Respondent / Complainant

For Petitioner : M/S.PETER ANGEL SARINA.U Advocate

For Respondent : Mr.B.NAMBISELVAN,
Additional Public Prosecutor

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

PRAYER: FOR BAIL IN CRIME NO. 194 OF 2023 ON THE FILE OF THE
RESPONDENT POLICE.

ORDER : The Court Made the following order :-



CRL OP(MD) No.16525 of 2023

WEB COPY

The petitioner/A1, who was arrested and remanded to judicial custody, on 23.06.2023 for the offences under Sections 8(c), 22(C) and 29(1) of NDPS Act, in Crime No.194 of 2023 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 23.06.2023 at about 07.00 am, the defacto complainant, on receiving information, along with police team went to the Mannavanur Kaikatti area. At that time, three persons tried to escape on seeing the police party. They were apprehended and on enquiry, they disclosed their name as Ramesh, Usha and Shiju. On suspicion, search was made and they handed over the Mushroom weighing about 50 grams. That was handed over by A1 and further process was undertaken as per the rules and procedure. Similarly, A2 also handed over 50 grams of Mushroom, so also A3. From A3, 100 grams of Mushroom was found in possession. All were arrested and remanded to custody.

3.The learned counsel for the petitioner would submit that the respondent police implicated the petitioner as if the petitioner is in possession of 100 grams of magic mushroom, which is coming under the purview of NDPS Act as per the Serial No.145 of the Table of the NDPS Act, which is named as Psilocybine and the petitioner was secured by the respondent police after 28 days. Immediately, he filed a bail application before the Trial Court in Crl.M.P.No.1672 of 2023 and the same was dismissed on 12.07.2023. Thereafter, the present application was filed. During



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the pendency of the bail application, this Court granted interim bail on 04.10.2023 on the ground that the chemical analysis report is awaited from the Forensic Lab. Thereafter, the respondent police filed a charge sheet and in view of the interim bail granted by this Court, this Court may absolute the interim bail already granted and the petitioner is ready to co-operate for the trial pending before the Trial Court.

4.Per contra, the learned Additional Public Prosecutor for the State would submit that as per the NDPS Act, there is a bar for granting bail in terms of Section 37 of the NDPS Act and further, as per the Table of the NDPS Act, the permissible quantity is only 2 grams. Since the 100 grams of Psilocybine was recovered from the petitioner, which is a commercial quantity, the Forensic Lab also opined that the substance of Psilocybine is covered under the NDPS Act and the interim bail was granted only for the purpose of awaiting the orders from the Forensic Lab. He would further submit that the Forensic Lab opined that the said Psilocybine is a commercial quantity, which was possessed by the petitioner and the charge sheet has already been filed before the concerned Court. Hence, he opposed to grant bail to the petitioner.

5.Heard the learned counsel on either side.

6.The facts in the present case are not in dispute. Admittedly, the respondent police recovered the magic mushroom from the petitioner, the chemical



CRL OP(MD) No.16525 of 2023

WEB COPY

name is Psilocybine, which is tabled as 145 item in the NDPS Act. The permissible quantity is only 2 grams, whereas, the substances recovered from the petitioner were 100 grams, which is a commercial quantity.

7.Since the petitioner possessed 100 grams of commercial quantity and there is a bar for granting bail under Section 37 of the NDPS Act, this Court is not inclined to grant bail to the petitioner.

8.Accordingly, this petition is dismissed. The petitioner is directed to surrender before the Trial Court within a period of two weeks from the date of receipt of a copy of this order. Further, the Trial Court is directed to conclude the trial within a period of six months from the date of surrender of the petitioner.

sd/-
02/01/2024

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/01 /2024
Sub-Assistant Registrar
(C.S.I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

To

1.The Principal Special Judge
for NDPS Act Cases, Madurai.



CRL OP(MD) No.16525 of 2023

2.The Inspector of Police,
Kodaikanal Police Station,
Kodaikanal, Dindigul District.

3.The Officer Incharge,
Sub Jail, Dindigul.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
CRL OP(MD) No.16525 of 2023
Date :02/01/2024

ED/ JGB /SAR- (04/01/2024) 5P / 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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