



CRL OP(MD) No.15208 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.15208 of 2023

1 NISHANTH

2 TAMILSELVAM

... Petitioners / Accused No.1 & 2

Vs

THE INSPECTOR OF POLICE
KODAIKANAL POLICE STATION,
DINDIGUL DISTRICT.
(CRIME NO.205 OF 2023)

... Respondent / Complainant

For Petitioners : M/S.MUNIYANDI.S Advocate

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

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

PRAYER: FOR BAIL IN CRIME NO.205 OF 2023 ON THE FILE OF THE
RESPONDENT POLICE.

ORDER : The Court Made the following order :-

The petitioners/A1 and A2, who were arrested and remanded to judicial custody,
on 02.07.2023 for the offences under Sections 8(c) r/w 22(C), 29(1) of NDPS Act, in



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Crime No.205 of 2023 on the file of the respondent police, seek bail.

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2.On secrete information, the de-facto complainant along with team of police people went to Poondi Bus Stop Kodaikanal, on 02.07.2023 at about 04.00 pm. Some people tried to escape from that place, on seeing the police party. They were apprehended. On search, they revealed their name as Nishanth and Tamilselvam. On suspicion, search was made with their consent and found in possession of Magic Mushroom. On weighing the same, it was found that it is 25 grams of weight. Further process was undertaken as per the rules and procedure. That was recovered from A1. From A2 also, 25 grams recovered. Sampling was taken as per the procedure. Based upon which, a case in Crime No. 205 of 2023 was registered for the offences stated above. The accused were arrested and remanded to judicial custody.

3.The learned counsel for the petitioners would submit that the respondent police implicated the petitioners as if the petitioners are in possession of 50 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 petitioners were secured by the respondent police after 28 days. Immediately, they filed a bail application before the Trial Court in Crl.M.P.No.1719 of 2023 and the same was dismissed on 31.07.2023. Thereafter, the present application was filed. During the pendency of the bail application, this Court granted interim bail on



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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 petitioners are 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 50 grams of Psilocybine was recovered from the petitioners, 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 petitioners and the charge sheet has already been filed before the concerned Court. Hence, he opposed to grant bail to the petitioners.

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 petitioners, the chemical



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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 petitioners were 50 grams, which is a commercial quantity.

7.Since the petitioners possessed 50 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 petitioners.

8.Accordingly, this petition is dismissed. The petitioners are 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 petitioners.

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.



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

3.The Officer Incharge,
District Jail, Dindigul.

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

+1 CC to M/s.S.MUNIYANDI, Advocate (SR-45[I] dated 03/01/2024)

ORDER
IN

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Date :02/01/2024

ED/JGB /SAR- (04/01/2024) 5P / 6C

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