



CRL OP(MD) No.18538 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.18538 of 2023

SHIJU

... Petitioner / Accused No.3

Vs

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

... Respondent / Complainant

For Petitioner : M/s.R.Venkatesan, Advocate

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

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

PRAYER:

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



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ORDER: The Court Made the following order :-

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The petitioner/A3, 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 the Narcotic Drugs and Psychotropic Substances 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 the petitioner. From the petitioner, 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 and other accused were in joint possession of 200 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 on 23.06.2023.



Hence, he prays for grant bail to the petitioner.

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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 200 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. He would further submit that the quantity involved in this case is a commercial quantity and the investigation has been completed 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 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 200 grams, which is a commercial quantity.

7.Since the petitioner possessed 200 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.



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8. Accordingly, this petition is dismissed. However, the concerned trial Court is directed to conclude the trial within a period of six months from the date of receipt of a copy of this order.

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 Court for EC and NDPS,
Madurai.

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

3.The Officer Incharge,
District Prison,
Dindigul.

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

ORDER
IN
CRL OP(MD) No.18538 of 2023
Date :02/01/2024



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ED/ JGB /SAR- (08/01/2024) 5P / 5C

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