

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
01.07.2021	06.07.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL. O.P. NO.10366 OF 2021

Nag Narayan Prasad

.. Petitioner

- Vs -

The Intelligence Officer
Narcotics Control Bureau
Chennai.

.. Respondent

Criminal Original Petition filed u/s439 Cr.P.C. praying this Court to enlarge the petitioner on bail pending investigation in R.R. No.05/2021 on the file of the Narcotics Control Bureau, Chennai.

For Petitioners : Mr. M.Shahjahan

For Respondent : Mr. N.P.Kumar, Spl. PP for NCB Cases

ORDER

The petitioner, who is arrayed as accused in R.R. No.5/2021 on the file of the respondent has filed the present petition seeking bail.

2. It is the case of the prosecution that based on information from the Security Executive of Aramex India Private Ltd., a courier company dealing with domestic and international courier consignments, the respondent reached the office of Aramex India Pvt. Ltd., and on the Security Executive identifying a parcel, which was said to have been booked by Dil Express Jhaver Plaza, Chennai, the same was opened and the parcel was said to contain 4.6 Kgs., of black coloured sticky substance, believed to be Hashish. The same was confiscated under mahazar and samples were drawn and sent to the forensic lab for analysis.

3. Thereafter, the owner of Dil Express Jhaver Plaza was summoned and on enquiry, it revealed that one Ranjit Singh had booked the parcel to Qatar. Based on the said information, the said Ranjit Singh was enquired, which enquiry revealed that the parcel was booked by the petitioner and one Mohd. Mafiz in the name of Amit Kumar Sarki for onward transmission to Qatar. Further enquiry revealed that Mohd. Mafiz had left for Kolkata and that the petitioner is to leave for Kolkata on 3.3.21. The respondents, thereafter, intercepted the petitioner at Kolkata Airport and upon enquiry, the petitioner gave a voluntary confession statement admitting his guilt in dealing with narcotic drugs and also admitted that the drugs seized at Aramex India Pvt. Ltd. Belongs to him, which was

couriered at his instance , which resulted in the petitioner being arrested for the offences u/s 8 (c) r/w 20(B) (ii) (C) of the NDPS Act and produced before the Addl. Sessions Judge, NDPS Court, Barasat and was remanded to judicial custody. The petitioner, after being brought to the territorial jurisdiction of Chennai, custodial interrogation was sought for by the respondents and the petitioner filed Crl. M.P. No.1049/21 for bail before the Principal Special Judge, Principal Special Court, EC & NDPS Act, which rejected the bail petition of the petitioner. Therefore, the present petition is filed by the petitioner seeking bail.

4. Learned counsel appearing for the petitioner submits that none of the mandatory conditions pertaining to arrest of the petitioner has been followed and that the voluntary confession statement, alleged to have been given by him, has been obtained from him under threat, coercion and duress and the statement of the petitioner u/s 67 of the NDPS Act is totally false. It is the further submission of the learned counsel for the petitioner that the petitioner is a chronic diabetic, besides having hypertension and cardiac problems and inspite of submission of necessary medical records, the court below has not considered the same in proper perspective and has dismissed his bail petition, which deserves to be interfered with by this Court.

5. Per contra, learned learned Special Public Prosecutor appearing for the respondent submitted that the medical ailment, which the petitioner is said to be suffering with, are problems, which half of the human race is suffering and those medical conditions are not grave enough to warrant interference with the rejection of bail by the trial court. It is the further contention of the learned Special Public Prosecutor that the petitioner, on his own volition, had admitted to his guilt in trafficking in narcotics, which statement was recorded in the presence of independent witnesses and, therefore, the retraction of the petitioner that the said statement was obtained by threat and coercion does not merit acceptance. It is the further submission of the learned Special Public Prosecutor that the arrival of the petitioner along with Mohd. Mafiz and their stay at Chennai and the departure of Mohd. Mafiz and the petitioner are spoken to by independent witnesses, who have no axe to grind against the petitioner. It is the further submission of the learned Special Public Prosecutor that the quantity of narcotic drugs which was seized to which link was established to the petitioner is a commercial quantity and, therefore, Section 37 of the NDPS Act comes into play and the petitioner cannot be granted bail for the reason that the quantity of contraband seized from the petitioner is a commercial quantity and in view of the

bar u/s 37 of the NDPS Act, the petitioner cannot be granted the relief sought for.

Accordingly, he prays for dismissal of the present petition.

6. This Court paid its careful consideration to the submissions advanced by the learned counsel on either side and also perused the materials available on record.

7. A perusal of the materials available on record, filed in the typed set of papers, reveal that the petitioner has certain medical ailments. According to the petitioner, the medical ailments suffered by him are chronic diabetes, hypertension and cardiac problem. It is to be pointed out that cardiac problem is associated with patients, who suffer from diabetes and hypertension. As pointed out by the learned Special Public Prosecutor, the above said medical condition is prevalent even among persons, who are of a much younger age than the petitioner. Almost half of the population in our country suffers from the above ailments. If the above ailments are taken to be the grounds for grant of bail, then all the jails would be in deserted condition, as most of the prisoners in the prison would be suffering with one or other form of the above ailment. Therefore, the above medical ailment, by itself, cannot be a ground for this Court to grant bail to

the petitioner. The associated medical condition of the petitioner should be of such a precarious nature that his continued incarceration would be detrimental to his health and only in such a scenario, this Court, in exercise of its powers, could consider grant of bail. However, as pointed out above, the medical condition, in the present case, does in no way could be said to be a precarious condition warranting any special treatment to the petitioner by acceding to his request.

8. Insofar as the contention relating to the coercion and threat exerted on the petitioner to extort the statement and on that ground also seeks the indulgence of this Court for bail, however, at this point of time, this Court is not inclined to go into the said contention in view of the specific stand taken by the learned Special Public Prosecutor that the quantity of contraband seized from the petitioner is a commercial quantity and, therefore, Section 37 of the NDPS Act squarely gets attracted, which prohibits grant of bail.

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9. It is not disputed by the petitioner that there is a total bar u/s 37 of the NDPS Act with regard to grant of bail involving commercial quantity of contraband. A perusal of the materials available on record reveals that the

quantity of contraband seized from the petitioner is a commercial quantity and, therefore, the bar u/s 37 of the NDPS Act prohibiting grant of bail squarely gets attracted. Further, it is also to be pointed out that the bail petition with regard to the co-accused, viz., A-2, has already been dismissed by this Court on the ground of the contraband being of commercial quantity. In such view of the matter, this Court is of the considered view that the prayer for grant of bail cannot be acceded to.

10. For the reasons aforesaid, this Court is in concurrence with the view expressed by the trial court with regard to rejection of bail and is of the considered view that relief of bail, as sought for by the petitioner cannot be acceded to and, accordingly, this petition deserves to be dismissed.

06.07.2021

Index : Yes / No

Internet : Yes / No

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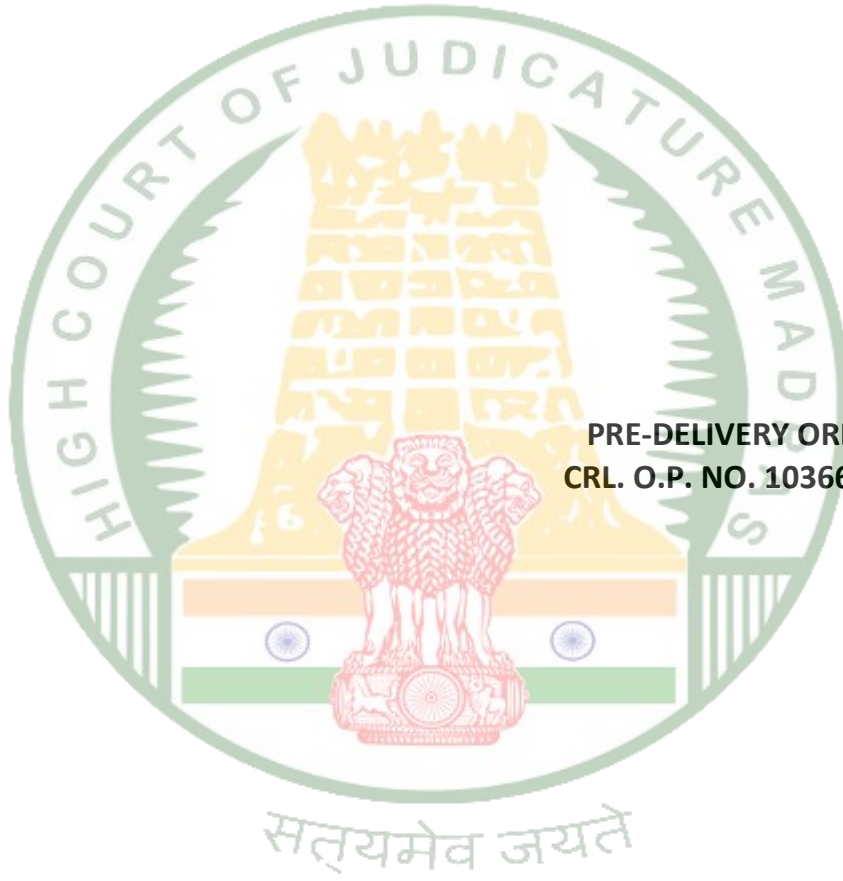
1. The Special Judge
Special Court under EC & NDPS Act
Chennai.
2. The Special Public Prosecutor
NCB Cases, Chennai.
3. The Intelligence Officer
Narcotics Control Bureau
Chennai.



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M.DHANDAPANI, J.

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**PRE-DELIVERY ORDER IN
CRL. O.P. NO. 10366 OF 2021**

**Pronounced on
06.07.2021**

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