



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Sixth day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION No.9178, 9181 & 9183 of 2022

C.C.NO.33 OF 2018

(ON THE FILE OF 1ST ADDITIONAL SPECIAL JUDGE FOR NDPS ACT CASES
CHENNAI)

Y.SHAMEER	[PETITIONER / ACCUSED IN CRL.O.P.NO.9178/2022]
R.MUTHURAMAN	[PETITIONER / ACCUSED IN CRL.O.P.NO.9181/2022]
NAZAR NAZIR	[PETITIONER / ACCUSED IN CRL.O.P.NO.9183/2022]

Vs

THE CENTRAL REP.BY THE INTELLIGENCE OFFICER DIRECTORATE OF REVENUE INTELLIGENCE, NO.27, G.N.CHETTY ROAD, T.NAGAR, CHENNAI-17. (F.NO.DRI/CZU/VIII/48/ENQ-1/INT21/2017)	[RESPONDENT IN ALL THE PETITIONS]
--	---------------------------------------

For Petitioner : M/S.R.C.PAUL KANAGARAJ Advocate
[IN ALL THE PETITIONS]

For Respondent : M/S.N.P.KUMAR, Special Public Prosecutor,
for DRI, Cases [IN ALL THE PETITIONS]

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who were arrested and remanded to judicial custody on 16.06.2017 for the offence punishable under Sections 8(C) r/w 22(c), 23, 25, 27A, 28 and 29 of NDPS Act, r/w Section 9A r/w 25A of NDPS Act of NDPS (Regulation of controlled substances) order 1993



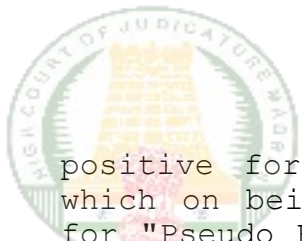
r/w 135A of Customs Act 1962 in C.C.No.33 of 2018 on the file of the 1st Additional Special Judge for NDPS Act cases, Chennai in respect of F.No.DRI/CZU/VIII/48/ENQ-1/INT-21/2017 on the file of the respondent, seek bail.

WEB COPY

2. The case of the prosecution is that based on an anonymous call, the respondent herein went on secret search to JSM warehouse, situated at Survey No.332/2 Sothupakkam Road, Budur, Redhills, Chennai and found the raw materials used for production of Narcotic substances. It is also alleged that the output products were stored and packed at a godown located at Star Exports, 108, School Road, Magadu, Chennai. Hence, this complaint.

3. The learned counsel appearing for the petitioners would submit that there are totally 12 accused in which the petitioners are arrayed as A5 to A7. All the petitioners are employees of A1 to A3. They were working for monthly salary in a soap manufacturing company. He also read out the statement recorded under Section 67 of the NDPS Act, 1985 of the petitioners herein. As per the statements, the petitioners were not aware of any details of the unlawful manufacturing activity being done. The owner of the company, namely, the second accused used to purchase or bring all the items required for manufacturing of other chemical product in the other portion of the godown. He know all the details of the manufacturing activity and nature of the ingredients, final manufactured products in the other side of the godown. After completion of the manufacturing, they would take away the final product of white colour powder to some places for delivery. However, the petitioners did not know the exact nature/description of the product. The petitioners also assumed that the chemical produced might be a drug or illegal product. Except these statements and their presence in the manufacturing unit, they have nothing to do with the crime as alleged by the prosecution. Hence, he seeks for grant of bail to the petitioners.

4. The learned Special Public Prosecutor (Crl.Side) for DRI cases filed a counter and submitted that the search was conducted at M/s. JSM Warehouse, comprised in Survey No.332/2, Sothupakkam Road, Budur Village, Budur Road, Redhills, Chennai in presence of 2 independent witnesses. At the time of search, the second accused and other accused persons were present in the premises. During the course of search, the officers found 3.065 Kgs of powdery substance tested positive for "Methamphetamine" a drug under the NDPS Act, 1985. It was tested with field test kit and 1.305 Kgs of powdery substance tested positive for "Pseudo Ephedrine", a controlled substance under the NDPS Act, 1985, on being tested with field test kit. It was tested positive for "Methamphetamine" and "Pseudo Ephedrine". Both the contrabands were seized along with Rs.6.5 Lakhs cash, 2 cars being used for transporting the narcotic drugs. He further submitted that during the course of search, the officers found and seized 11.010 Kgs of white crystalline powder which on being tested with the Drug Detection Test kit answered



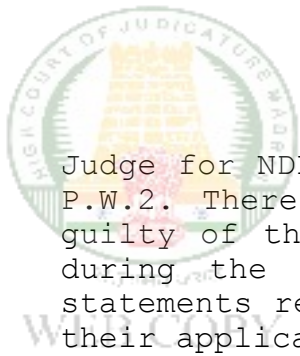
positive for "Amphetamines", 55.505 Kgs of white crystalline powder which on being tested with Drug Detection Test kit answered positive for "Pseudo Ephedrine", a controlled substance covered under the NDPS Act, 1985, 90.825 Kgs of brown powdery substance which on being tested with the help of the Drug Field Test kit answered positive for "Heroin", a Narcotic Drug covered under the NDPS Act, 1985. The petitioners statements were recorded under Section 67 of the NDPS Act, in which they categorically admitted their role in abetting in the commission of offence of hiring the godown for manufacture of drugs and possession and transshipping of the drugs manufactured at JSM Warehouse, Redhills, Chennai. Therefore, they committed very serious offence and there is a bar under Section 37 of NDPS Act, 1985 for granting bail. He further submitted that already this Court dismissed their application for bail by an order dated 27.08.2018. Hence, he vehemently opposed for grant of bail to the petitioners.

5. Heard Mr.R.C.Paul Kanagaraj, learned counsel appearing for the petitioners and Mr.N.P.Kumar, learned Special Public Prosecutor for DRI cases appearing for the respondent.

6. The case of the prosecution is that there are totally 12 accused in which the petitioners are arrayed as A5 to A7. The accused A1 to A3 were running a manufacturing unit in the name and style of M/s. JSM Warehouse and they are also having a godown in the name and style of M/s. Star Exports. It is a manufacturing unit of Soap product. On search, the respondent found that the accused persons were manufacturing the drugs as follows,

- (i) "Methamphetamine"
- (ii) "Pseudo Ephedrine"
- (iii) "Amphetamines"

7. In pursuant to the seizure of the above said products, the case has been registered as against the accused persons and arrested the accused persons. As far as the petitioners are concerned they are arrayed as A5 to A7. A perusal of the statements under Section 67 of the NDPS Act, 1985 revealed that they were employees of A1 to A3. Their duties are that they used to add the chemicals as instructed by other accused persons and mix the same in it. They also used to make note of the time of chemical reaction procedure and inform to other accused persons. There were not aware of any other details of unlawful manufacturing activity being done in the manufacturing unit by other accused persons. Even according to the case of the prosecution, A1 to A3 used to bring all the required materials for manufacturing of other chemical product. They only know the details of manufacturing activity and nature of ingredients, final manufactured products. Though, this Court dismissed the bail petition filed by the petitioners while pending the investigation, now, the respondent completed the investigation and laid the final report and the same has been taken cognizance in C.C.No.33 of 2018 on the file of 1st Additional Special



Judge for NDPS Act, Chennai. So far, the respondent examined P.W.1 and P.W.2. Therefore, the petitioners have established that they have no guilty of the offence and they have not likely to commit the offence during the bail period. They manured the *prima facie* as per the statements recorded under Section 67 of the NDPS Act, 1985 to consider their application for bail.

8. In view of the above facts and circumstances of the case, the petitioners have satisfied this Court with regard to the twin conditions as contemplated under Section 37 of the NDPS Act, 1985. That apart, the petitioners were arrested and remanded to judicial custody on 16.06.2017 and after examination of P.W.1 and P.W.2, there is no progress by the prosecution and also considering the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners.

9. Accordingly, the petitioners are ordered to be released on bail on their executing their separate bonds for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two blood related sureties, each for a like sum to the satisfaction of the learned **"1st Additional Special Judge for NDPS Act cases at Chennai"** and on further conditions that:-

[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 petitioners shall report before the Trial Court daily Morning at 10.30 a.m., and Evening at 05.00 p.m, until further orders.

[c] the petitioners shall not abscond either during investigation or trial.

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 abscond, a fresh FIR can be registered under Section 229A IPC.

WEB COPY

-sd/-
06/06/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE I ADDITIONAL SPECIAL
JUDGE FOR NDPS CASES, CHENNAI.

2 THE SPECIAL PUBLIC PROSECUTOR FOR DRI CASES,
HIGH COURT, MADRAS.

3 THE INTELLIGENCE OFFICER
DIRECTORATE OF REVENUE INTELLIGENCE,
NO.27, G.N.CHETTY ROAD,
T.NAGAR, CHENNAI-17.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

CC to M/S.R.C.PAUL KANAGARAJ Advocate on payment of necessary charges

CRL OP.9178, 9181 & 9183/2022

Date :06/06/2022

TA-07/06/2022