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Crl.O.P. Nos. 8324, 13506, 13510 & 15173 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2022

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

Crl.O.P. Nos. 8324, 13506, 13510 & 15173 of 2022

Rathish Rajan,
S/o. K.V.Rajan

.. Petitioner in
Crl.O.P.No.8324/2022

Manikandan,
S/o. Kumar

.. Petitioner in
Crl.O.P.No.13506/2022

Ahamed Iqbal Fathih,
S/o. Mohammed Rubil

.. Petitioner in
Crl.O.P.No.13510/2022

Dhawooth Ahamed Sheriff,
S/o.Kareem Ahamed Sheriff

.. Petitioner in
Crl.O.P.No.15173/2022

Versus

The State by
The Inspector of Police,
H1 Washermanpet Police Station,
Chennai.
(Crime No.2362 of 2021)

... Respondent in
all Crl.O.P.s



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PRAYER in Crl.O.P.No. 8324 of 2022 : Criminal Original Petition filed under Section 439 of the Code of Criminal Procedure, to enlarge the petitioner on bail pending trial in C.C.No.332 of 2021 on the file of Principal Special Judge, EC-CUM-NDPS Act Cases, Chennai in Crime No.2362 of 2021 on the file of Inspector of Police, H1, Washermanpet Police Station, Chennai.

PRAYER in Crl.O.P.No. 13506 of 2022 : Criminal Original Petition filed under Section 439 of the Code of Criminal Procedure, to enlarge the petitioner on bail in Crime No.2362 of 2021 on the file of respondent police, pending investigation.

PRAYER in Crl.O.P.No. 13510 of 2022 : Criminal Original Petition filed under Section 439 of the Code of Criminal Procedure, to enlarge the petitioner on bail arrested in Crime No.2362 of 2021 in C.C.No.322 of 2021 (On the file of the II Addl. Special Judge for NDPS Act and EC Act cases, Chennai) pending trial of the case.

PRAYER in Crl.O.P.No. 15173 of 2022 : Criminal Original Petition filed under Section 439 of the Code of Criminal Procedure, to enlarge the



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petitioner on bail in C.C.No.322 of 2021 on the file of learned II Addl.

Special Court for NDPS & EC Act Cases, Chennai pending trial.

For Petitioner in Crl.O.P.

No. 8324 of 2022 : Mr.B.Kumarasamy

For Petitioner in Crl.O.P.

Nos. 13506 & 15173 of 2022 : Mr.B.Shankar

For Petitioner in Crl.O.P.

No. 13510 of 2022 : Mr.K.Dilli Ganesh

For Respondents in all

Crl.O.P.s : Mr.R.Kishore Kumar,
Govt. Advocate (Crl. Side)

COMMON ORDER

The petitioners, who were arrested and remanded to judicial custody on 28.07.2021 respectively for the alleged offence under Sections 8(c) r/w 20(b)(ii)(B), 22(c), 25 and 29(1) of NDPS Act, 1985 in Crime No.2362 of 2021 on the file of the respondent police and pending trial in C.C.Nos. 332 and 322 of 2021 on the file of II Addl. Special Court for NDPS & EC Act cases, Chennai, seeks bail.



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2. The case of prosecution is that as per secret information, on 28.07.2021 at about 09.00 a.m., the respondent police had intercepted and conducted search on the petitioner's two wheeler, nearby burial ground at Moolakothalam, they found 30 boxes of Nitrovet – 10 mg., At the same time, the respondent conducted search with other accused and found 14 boxes of TYDOL tablets and also 2 kgs. of ganja without having valid permission. Hence, the complaint.

3. By relying the authority laid down by the ***High Court of Himachal Pradesh in Cr.M.P. (M) No. 1091 of 2017, dated 25.08.2017 in the case of Kapil Garg vs. State of Himachal Pradesh***, the learned counsel appearing for petitioners would submit that proper purity test was not conducted and the respondent police also not submitted the particulars with regard to psychotropic substance said to be found in the tablets, which were alleged to be recovered from the accused, it would show that it falls within the intermediate quantity. The learned counsel would also submit that the petitioners are innocent persons and they are in jail for more than a year. Hence, he prays to grant bail to the petitioners.



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4. By relying the decision laid down by the Apex Court reported in **2020 (20) SCC 272** in the case of ***Hira Singh and another vs. Union of India and another***, the learned Government Advocate (Crl.Side) would submit that the case in hand not refers with the facts related to the authority relied on by the learned counsel for petitioners. He would further submit that nearly about 9000 tablets were recovered and 14 boxes of TYDOL tablets and 30 boxes of Nitravet and also 2 kgs. of ganja were recovered. The seizure of commercial quantity of Nitravet – 10 tablets are 11700, each weighing 0.566 grams, total tablet weight 6622.2 grams, TYDOL 1430 tablets, each tablet weighing 0.267 grams. Thus, total tablet weighing 381.81 grams. The petitioner/A1 is having three previous cases and seized contraband was sent for chemical analysis and the final report was also filed. He would also submit that if the petitioners are released on bail, they will abscond and they will tamper the witness and one of the petitioner belong to Kerala. Hence, he vehemently opposed to grant bail to the petitioners.

5. Heard and considered rival submissions made by learned counsel



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for petitioners and learned Government Advocate (Criminal Side) appearing
for respondent.

6. Considering the facts and circumstances and considering the submissions made by both sides and also on seeing the fact that seized contraband articles are not a smaller quantity, but the learned counsel for petitioners submitted that it is only a smaller quantity, and it is not a commercial quantity, but nearly about 14000 tablets were seized under mahazar from the accused persons and the petitioner/A1 is also having three previous cases similar in nature, this Court is not inclined to grant bail to the petitioners. However, the trial court is directed to dispose the case as early as possible. Accordingly, these Criminal Original Petitions are dismissed.

13.07.2022

Index: Yes/No

Internet: Yes/No

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To

1. The Inspector of Police,
H1 Washermanpet Police Station, Chennai.

2. The Public Prosecutor,
High Court, Madras.



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T.V.THAMILSELVI, J.

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Pre-delivery order in
Crl.O.P. Nos. 8324, 13506,
13510 & 15173 of 2022

13.07.2022