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CrI.O.P.No.4501 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on 09.08.2023	Orders pronounced on 17.08.2023
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THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.4501 of 2023

Gnanasegar @ Gnanam

... Petitioner

Vs.

Union of India
represented by its
Jr. Intelligence Officer
Narcotics Control Bureau
Chennai Zonal Unit
Chennai.

... Respondent

This Criminal Original Petition is filed under Section 439 Cr.P.C.
praying to enlarge the petitioner on bail in NCB. F. No.48/1/07/22-
NCB/MDS on the file of the respondent police.

For Petitioner : Mr.G.Prabhakaran
for
M/s.S.Kasirajan

For Respondent : Mr.Rajendrakumar
Special Public Prosecutor



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ORDER

This Criminal Original Petition is filed praying to enlarge the petitioner on bail in NCB. F. No.48/1/07/22-NCB/MDS on the file of the respondent police.

2. The case of the prosecution in brief is as follows:-

The Intelligence Officer Shri. E.Sankara Subramnaian, NCB, Chennai received a secret information at about 05.00 hours on 23.04.2022 that a person called Nedunchezian @ Mani Achari, aged about 55 years is indulging in trafficking of Methamphetamine [ice] from India to Srilanka. After recording the information and getting necessary approval from the Superintendent, the Intelligence Officer Shri. E.Sankara Subramnaian and team of NCB officers, proceeded to Chennai Domestic Airport. After informing the independent witnesses about the purpose, requested them to be the witnesses. At entry point of immigration at Departure Hall, Shri. E.Sankara Subramnaian identified T.Nedunchezian from his Srilankan Airlines boarding pass. He introduced himself and the team to T.Nedunchezian @ Mani Achari by showing their identity cards.



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T.Nedunchezian @ Mani Achari also showed his Indian Passport and Srilankan Airlines boarding pass along with one hand baggage. His check in luggage was requisitioned for examination. The Intelligence Officer informed about the information received about the possession of drug and enquired whether T.Nedunchezian @ Mani Achari was in possession of any drug, for which he answered in affirmative and stated that the consignment is concealed in zipped file covers in maroon colour suitcase. After following necessary procedure, the maroon colour trolley bag was opened and it contained office stationery items and six zipped file covers. Six zipped files contained white colour crystal substance and in total, it weighed 184 gram. The entire contraband was mixed, heat sealed, labelled and sealed with NCB Seal No.11 and marked as P1. The suitcase with six zipped file covers and other stationary items were sealed with NCB Seal No.11 and marked as P2. Other articles in the possession of T.Nedunchezian @ Mani Achari were seized, sealed with NCB Seal No.11 and marked as P3. During the course of enquiry, T.Nedunchezian @ Mani Achari stated that his old friend Faizal Ahamed asked him to smuggle the narcotic drug called ICE to Srilanka on payment of commission. On 22.04.2022, Faizal Ahamed gave around 200 gram of Methamphetamine to T.Nedunchezian @ Mani



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Achari. At request of Faizal Ahamed, M.Selvam @ Katta Kumar arranged 200 gram of drug ICE from a person named Padianallur Gnanam. Gnanam's mobile Number is 96772 96141 and he is settled in Padianallur, Chennai. The investigation revealed that Gnanasegaran @ Gnanam received Rs.1,00,000/- through cash and online from Selvam. A sum of Rs.10,000/- was received by Google Pay through his old mobile Number 96772 96141. This number was used by Gnanasegaran @ Gnanam to contact Selvam @ Katta Kumar on his mobile Numbers 98419 13594 and 73055 58107 for drug business. Accused Samaiyon is an associate of Gnanasegaran @ Gnanam in his drug business. Thus, the accused are being prosecuted for the offences under Sections 8(c) r/w 12, 22 (c), 23 (c), 24, 28 and 29 NDPS Act registered in R.R.No.25 of 2022.

3. Learned counsel for the petitioner submitted that there is no recovery of any contraband from the petitioner. A2 and A3 are implicated on the basis of the confessional statement of A1. A4 and A5 are implicated on the basis of the confessional statement of A2 and A3. There is no recovery of any contraband from A2 to A5. The prosecution relies only on the confessional statements of co-accused and the statement of the accused



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for implicating them in this case. It also relies on certain cellphone conversations between the petitioner and the accused Selvam @ Katta Kumar. One more circumstance, the prosecution relies is transfer of a sum of Rs.10,000/- from A3's daughter to the account of the petitioner. Petitioner runs a shop and A3's daughter used to purchase from the petitioner's shop. For the purchases made, she paid money and therefore, that cannot be a ground for presuming that the petitioner had involved in the offence of drug trafficking. A5 was granted bail. Petitioner was arrested five months after the arrest of A1. Petitioner was in judicial custody from 24.09.2022 and thus, he seeks bail.

4. In reply, learned Special Public Prosecutor submitted that the petitioner had thrown his cellphone SIM card and therefore, it was not immediately possible for securing him. He was apprehended, while he was returning from Delhi. Respondent collected documents to show that there was money transaction between A3 – Selvam @ Kattakumar and this petitioner. Petitioner is the one, who helped in procuring Methamphetamine. Therefore, learned Special Public Prosecutor strongly opposes the release of the petitioner on bail.



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From the submissions and the materials produced in this case, it is seen that A1 was arrested and apprehended with 184 grams of Methamphetamine, which is a commercial quantity. According to the prosecution case, this psychotropic substance was procured from this petitioner. A sum of Rs.1,00,000/- was paid to this petitioner in cash and through online from bank account. Bank account of this petitioner shows that a sum of Rs.10,000/- was transferred from the account of A3 – Selvam @ Katta Kumar's daughter Anishamol. Gnanasegaran @ Gnanam used his old mobile number 96772 96141 to contact Selvam @ Kattakumar on his mobile numbers 98419 13594 and 73055 58107 for drug trafficking business. Both accused have given statements in this regard. There is also statement of Anishamol daughter of A3-Selvam @ Kattakumar, wherein she admitted that at the request of her father, she used to transfer money. In support of this, account statement showing the transfer of Rs.15,000/- from Anishamol to the petitioner is produced. The submission of the learned counsel for the petitioner that the petitioner was running a shop and the sum of Rs.15,000/- was paid in connection with the purchase of goods by Anishamol from the petitioner's shop, is not supported by any evidence.



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6. From the materials gathered, there is a strong ground to believe that the petitioner is the one who procured 200 gram of Methamphetamine at the instance of Selvam @ Katta Kumar and later, it was given to accused T.Nedunchezian @ Mani Achari for illegal export to Srilanka. When there are materials available to frame appropriate charges against the petitioner under NDPS Act, this Court cannot believe that the petitioner has not committed the offence alleged against him and that he would not commit such offence, if he is released on bail. Petitioner did not satisfy the twin conditions under Section 37 of NDPS Act for the grant of bail. In this view of the matter, this Court is not inclined to grant bail to the petitioner.

7. In the result, this Criminal Original Petition is dismissed.

Mra

17.08.2023

Index :Yes/No

Internet:Yes

Speaking Order/Non-speaking Order



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To
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1. The Jr. Intelligence Officer
Narcotics Control Bureau
Chennai Zonal Unit
Chennai.
2. The Public Prosecutor,
Madras High Court,
Chennai.



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G.CHANDRASEKHARAN, J.

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order in
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