



Crl.O.P.No.7900 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on 09.08.2023	Orders pronounced on 17.08.2023
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CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.7900 of 2023

Ramachandrulu Ramireddy

... Petitioner

Vs.

State : represented by
The Intelligence Officer
Narcotic Control Bureau
Chennai Zonal Unit
Chennai – 600 053.

... Respondent

This Criminal Original Petition is filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in F.No.NCB F.No.48/1/01/2023 on the file of the respondent.

For Petitioner : M/s. M.A.Gouthaman

For Respondent : Mr.Rajendra Kumar
Special Public Prosecutor



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Crl.O.P.No.7900 of 2023

ORDER

This petition is filed praying to enlarge the petitioner on bail in F.No.NCB F.No.48/1/01/2023 on the file of the respondent.

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

Based on a specific information, officers of Narcotics Control Bureau, Chennai Zonal Unit, NCB, Chennai effected seizure of 438.400Kg of Ganja being transported through a Force traveler Maxi cab vehicle bearing registration No.AP-05-TA-4428 at Karanodai Toll plaza, Chennai on 11.02.2023. The driver of the said vehicle, Sidagam Veera Venkata Lova Kumar, first accused in this case, was the carrier of Ganja along with accused Narala Sathyanarayana and the petitioner Ramachandrudu Ramireddy. Petitioner was escorting the vehicle bearing registration No.AP-05-TA-4428, in his vehicle bearing registration No.AP-05-DT-1466. The petitioner was intercepted along with the aforesaid vehicle at Karanodai Toll plaza, Chennai on the same date.



Crl.O.P.No.7900 of 2023

3. Learned counsel for the petitioner submitted that the allegations made against the petitioner is that the petitioner had escorted the vehicle bearing registration No.AP-05-TA-4428 in his vehicle bearing registration No. AP-05-DT-1466. In fact, the petitioner was taken to judicial custody on 11.02.2023, but was produced before the learned Magistrate only on 14.02.2023. In the counter filed before the Principal Special Judge for EC and NDPS Act Cases, Chennai, it is allegedly stated by the petitioner in his voluntary statement dated 12.02.2023 that he admitted giving Rs.1.40 lakh to A4 for the purchase of seized Ganja. A4 in his voluntary statement dated 14.02.2023 stated that the petitioner paid Rs. 60,000/- and Rs. 25,000/- as payment of loan for Force Traveller Maxi cab vehicle bearing registration No.AP-05-TA-4428. Therefore, the claim that the petitioner paid money for the purchase of Ganja and escorted the Ganja, which was transported in the vehicle bearing registration No.AP-05-TA-4428, in his vehicle bearing registration No.AP-05-DT-1466 is totally not correct. Petitioner had only lent money to A4. The sum of Rs.1.40 lakhs is not enough to buy 438.400 Kg of Ganja. Petitioner is an agriculturist and senior citizen and small time money lender. The materials gathered by the respondent will not show the



Crl.O.P.No.7900 of 2023

conscious possession of Ganja. He is in judicial custody from 11.02.2023 and thus, he seeks bail.

4. Learned counsel for the petitioner relied on the following judgments in support of his submissions.

(i) This High Court's judgment in ***Crl.O.P.No.12527 of 2023 (Aashik Ali @ Aashik)***, wherein it is held as follows:-

“8.this Court finds that the petitioner is implicated based on confession and there is no recovery from him. The petitioner is an Advocate who has appeared in several NDPS Cases along with his Senior. Though it is stated that the petitioner was dealing with the finances of the other accused, other than the money alleged to have been transacted though GPay on 22.06.2022, 19.09.2022 and 28.09.2022, there is no other material. The date of occurrence is on 29.04.2023. Further, the petitioner in the previous case has also



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Crl.O.P.No.7900 of 2023

been implicated based on the confession and he has been granted anticipatory bail. This Court is of the opinion that the petitioner has satisfied the conditions under Section 37 of NDPS Act for grant bail of bail, thereby, this Court is inclined to grant bail to the petitioner with certain conditions .”

(ii) Hon'ble Supreme Court's judgment reported in **2022 SCC OnLine SC 828 (State of West Bengal ..vs.. Rakesh Singh alias Rakesh Kumar Singh)**, wherein it is observed as follows:-

*“57. Although, the past history of the respondent and even his conduct in relation to the processes concerning the present case give rise to a few questions but, the strong countervailing factor in the present case is the prima facie indication that he is being sought to be framed by concoctions and baseless stories. Another factor noticeable is that the respondent has not been involved in any **NDPS***



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Crl.O.P.No.7900 of 2023

Act case or any akin offence in the past.

Interestingly, it is noticed from the material placed on record that nothing of any contraband article has been recovered from the respondent or from any place under his exclusive control. This factor further adds on to the doubt as to whether the respondent had at all been indulgent in narcotics or any contraband?”

5. In response, learned Special Public Prosecutor for NDPS Act Cases submitted that the petitioner was financing money for the purchase of vehicle bearing registration No.AP-05-TA-4428 and for the purchase of Ganja. A secret chamber was made in the vehicle bearing No.AP-05-TA-4428 for concealing Ganja for the safe and undetected transportation. A4 had sent photos of the vehicle bearing registration No.AP-05-TA-4428 with the secret chamber arrangement made in the vehicle, to the petitioner. It is evident from the cellphone seized from the accused. Whatsapp communications show that the petitioner transferred money to A4.



Crl.O.P.No.7900 of 2023

Petitioner, along with other accused, had conspired in illegally procuring and transporting Ganja. Thus, he seeks the dismissal of this petition.

6. Considered the rival submissions and perused the records.

7. It is true that the Ganja was not recovered from the possession of the petitioner or from the vehicle which was driven by the petitioner. Ganja was recovered from the vehicle bearing registration No.AP-05-TA-4428. However, petitioner, along with other accused, was arrested at Karanodai Toll Plaza, Chennai on the same date i.e., on 11.02.2023. It is submitted by the learned Special Public Prosecutor that the petitioner has given statement under Section 67 of NDPS Act and admitted his guilt. The statement recorded under Section 67 of NDPS Act cannot be used as evidence, as per the judgment of the Hon'ble Supreme Court in ***Tofan Singh Case***. However, this Court finds from the evidence produced by the learned Special Public Prosecutor that the petitioner had transferred money to A4. Whatsapp communication is produced in this regard. A4 sent photos of the vehicle bearing registration No.AP-05-TA-4428 and another photo showing



Crl.O.P.No.7900 of 2023

the secret chamber created for the purpose of concealing the Ganja. This

Whatsapp communication from A4 to A2/petitioner, prima facie establishes the fact that the petitioner is in know of things that the vehicle bearing registration No.AP-05-TA-4428 is altered with secret chamber, most obviously, for the purpose of concealing the Ganja to be transported. That apart, Whatsapp communications show that the petitioner sent Rs. 60,000/- and Rs. 25,000/- to Sriram Transport Finance for the purchase of vehicle bearing registration No.AP-05-TA-4428. This vehicle is used for the concealment of the Ganja seized in this case. There is no reason why the petitioner has to come to Chennai following the vehicle bearing registration No.AP-05-TA-4428. All these factors clearly establish that the petitioner is also a part of the group, namely accused in this case in conspiring to procure Ganja and its transportation. Therefore, the submission of the learned counsel for the petitioner that there is no material to implicate the petitioner in this case and that there is no material to show that the petitioner was conscious of the possession of the Ganja, cannot be accepted. There are materials available to show that the petitioner was conscious that the Ganja was being transported in the vehicle bearing registration No.AP-05-TA-



Crl.O.P.No.7900 of 2023

4428 and knowing that, he had escorted this vehicle in his vehicle bearing registration No.AP-05-DT-1466. The materials available are enough to frame appropriate charges against the petitioner for trial. In the said circumstances, this Court cannot believe that the petitioner has not committed the offence alleged against him and that he would not commit such an offence if he is released on bail. He 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. In view of the materials available against the petitioner, this Court is of the view that the judgments relied by the learned counsel for the petitioner are not applicable to the facts and circumstances of this case.

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

mra

17.08.2023

(1/2)

Index :Yes/No

Internet:Yes

Speaking Order/Non-speaking Order

9/13



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Crl.O.P.No.7900 of 2023

To

1. The Intelligence Officer
Narcotic Control Bureau
Chennai Zonal Unit
Chennai – 600 053.
2. The Public Prosecutor,
Madras High Court,
Chennai.



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Crl.O.P.No.7900 of 2023

G.CHANDRASEKHARAN,J.

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Crl.O.P.No.7900 of 2023

(1/2)

17.08.2023



Crl.O.P.No.7900 of 2023

WEB COPY

Crl.O.P.No.7900 of 2023

G.CHANDRASEKHARAN,J.

After pronouncing order, it is informed by the learned counsel for the petitioner that the complaint has been filed in this case and he requested that the observation made in this order may not affect the trial. Therefore, this Court directs the learned Principal Special Judge for EC & NDPS Court, Chennai, to dispose the case uninfluenced by any of the observations made in this order and dispose the case on its own merits and in accordance with law.

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17.08.2023

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Crl.O.P.No.7900 of 2023

G.CHANDRASEKHARAN,J.

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Crl.O.P.No.7900 of 2023

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