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Crl.OP.No.23554 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.OP.No.23554 of 2023

Nikil S/o. Puthussery

... Petitioner/Accused-4

Vs.

State by
The Inspector of Police,
NIBCID, Coimbatore,
Coimbatore District.

(Crime No.22 of 2022)

...Respondent

Prayer: Criminal Original Petition filed under Section 439 of Cr.P.C. praying to enlarge the Petitioner on bail concerned in C.C.No.60 of 2022 on the file of the Special Court for Essential Commodities Act Cases, Coimbatore.

For Petitioner : Mr.A.M.Rahamath Ali

For Respondent : Mr.R.Kishore Kumar
Government Advocate (Crl. Side)



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ORDER

The petitioner/A4 seeks bail in Crime No.22 of 2022, registered by the respondent police for the offences punishable under Sections 8(c), 20(b)(ii)(C), 25 & 29(1) of NDPS Act. The petitioner had been secured on execution of Prisoner in Transit warrant on 15.06.2023.

2. After investigation, charge sheet had been originally filed showing the petitioner as an absconding accused and subsequently, as stated, he had been secured on PT warrant. The charges had been taken cognizance as C.C.No.60 of 2022 and the matter is now pending trial before the Special Court for Essential Commodities Act Cases at Coimbatore.

3. The case of the prosecution is that, at the check post between Tamil Nadu and Kerala, a lorry was sought to be flagged down but on seeing the officials at the check post, the lorry took a U-turn and went back into Tamil Nadu. Information was given and the lorry was



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intercepted and stopped and on search on the lorry, A1 and A2 were physically present in which the respondent found 88 packets (each packet containing 2 kgs of ganja) totally 176 kgs of ganja. Thereafter, it is stated that the involvement of the present petitioner/A4 and A3 came to be known and it was stated that they were following the lorry in a separate car. They had however absconded. A3 was also secured on execution of PT warrant and his bail application came up for consideration before a learned Single Judge of this Court in Crl.O.P.No.6938 of 2023. By an order dated 28.03.2023, taking note of all the facts, the learned Single Judge had granted bail.

4. The learned counsel for the petitioner placed a strong reliance on the said order and stated that the petitioner also has to be viewed with the same considerations as was shown for A3 and it was stated that since A3 had been granted bail there is no justification in denying the same relief for the petitioner herein.



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5. On the side of the respondent, it is however contended that the petitioner was secured on PT warrant and there was no necessity for the respondent to go over to Kerala to secure the prisoner, who was already in custody in another case unless there is credible information against the petitioner herein.

6. It is also contended that the quantity of ganja seized is a commercial in nature but however, the fact is that it was seized in the vehicle, in which A1 and A2 were present. It is also stated that A3 and A4 were following the said lorry in a separate car.

7. The learned Single Judge while granting bail to A3 had, on consideration of the afore mentioned facts, stated that the Court was of the opinion that the conditions required under Section 37 of NDPS Act for grant of bail had been satisfied by A3 and therefore, the bail could be granted to the petitioner therein. The petitioner herein also lies under the same footing.



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8. Without entering into any discussions since the prerogative is always with the prosecution to establish the case beyond any doubt and merely because bail has been granted it would not mean that there is no case made out as against the petitioner herein, I would grant bail to the petitioner herein subject to the following conditions:

9. Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the Special Court for Essential Commodities Act Cases, Coimbatore, 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 petitioner shall appear before the Special Court for Essential Commodities Act Cases, Coimbatore, on all working days at 10.30 a.m., until further orders.

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



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

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To

- 1.The Special Court for Essential Commodities Act Cases, Coimbatore.
- 2.Central Prison, Idukki Muttom.
- 3.The Inspector of Police,
NIBCID, Coimbatore.
- 4.The Public Prosecutor,
High Court of Madras.



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C.V.KARTHIKEYAN. J.

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