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Crl.O.P.No. 527 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.02.2024

PRONOUNCED ON : 11.03.2024

CORAM

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

Crl.O.P.No. 527 of 2024

Zhagir Hussain

... Petitioner/
Accused No.5

Vs.

The State represented by
The Inspector of Police
B-1 North Beach Police Station,
Chennai – 600 001.
(Crime No.190 of 2022)

... Respondent/Complainant

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in C.C.No. 139 of 2023 pending on
the file of the learned Principal Sessions Court under EC & NDPS Act,
Chennai.

For Petitioner : Mr. T.Saraganan

For Respondent : Mr.L.Baskaran
Government Advocate (Crl.Side)



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ORDER

The petitioner/fifth accused in C.C.No. 139 of 2023 now pending before the Principal Sessions Court under EC & NDPS Act, Chennai, seeks bail.

2. Originally Cr.No. 190 of 2022 had been registered by the respondents for offences under Sections 9A, 22(c) and 25A of NDPS Act. The petitioner had been remanded to custody on 01.06.2022.

3. It is the case of the prosecution that the petitioner and the other accused were involved in the sale of Methamphetamine and Ephedrine in a Honda Activa vehicle opposite to HP Petrol Bunk near Rajaji Road, Indian Bank. On receiving information, the respondent had found one person on the vehicle and two others standing near the vehicle. When all the three persons tried to escape, the respondent apprehended them. When they searched the vehicle, they found a bag with two other bags containing Ephedrine and Methamphetamine both weighing 1 kgs each. The accused stated that they had purchased it from two other persons, who had given it to the accused for sale. A report was filed under Section 57 of NDPS Act and FIR in Crime No.



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190 of 2022 had been registered by the respondent.

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4. It is contended by the respondent that earlier bail applications have been dismissed by this Court. It is also contended that the trial has not even commenced before the trial Court. The petitioner seeks bail on that ground also. It is also contended that the accused Nos. 1 to 4 and 6 had been granted bail. Further, A-7 had died. It had therefore been contended that the petitioner should also be granted bail.

5. It is the contention of the respondent that all the three accused were found in possession of 1 kg of Ephedrine and 1 kg of Methamphetamine which are both commercial quantity. It had been stated that the accused had been arrested and First Information Report was registered. It is also contended on behalf of the respondent that the stipulations under Section 37 of the NDPS Act are not satisfied. It is stated that since the accused were found in possession, charges have been framed. With respect to the grant of bail to the accused Nos. 1 to 4 and 6, it had been contended that they had been granted bail under Section 167(2) Cr.P.C.



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6. I have carefully considered the arguments advanced.

7. The primary ground on which the learned counsels for the petitioner seeks bail is that there has been no progress in the trial. It had been pointed out that the petitioner had been languishing in custody from 01.06.2022. It had also been contended that the other accused had been granted bail. It had therefore been stated that since there is no progress, the petitioner should also be granted bail.

8. A perusal of the records shows that the first accused was found in possession of 500 grams of Methamphetamine and 1 kgs of Ephedrine and the accused Nos. 2 and 4 were found in possession of 2.50 grams Methamphetamine and A-3, A-5 and A-6 were found in possession of 1kg of Methamphetamine and 1 kg of Ephedrine. All these are commercial quantities.

9. Originally, on 01.06.2022, the respondent had arrested A-3, A-5 and A-6 and from their confession, the accused Nos. 2 and 4 had been arrested. From their confession, the A-1 had been arrested. It is thus seen that



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there is a direct chain linking all the accused. The total quantity seized from all the accused is 1 kgs 750 grams of Methamphetamine and 2 kgs of Ephedrine. This is substantially more than the limit of commercial quantity which is 50 grams. With respect to the progress of the trial, this Court had obtained a report from the Principal Sub Court under EC & NDPS Act Cases and a report had also been received on 14.02.2024 in Disc No. 949/2024. It had been stated that the matter had been posted on 19.02.2024 for engaging counsel for A-5. The petitioner cannot taken advantage of the fact that the accused Nos. 1 to 4, 6 had been granted bail under Section 167(2) Cr.P.C. The records perused, very clearly reveal about the seizure of the recovery and the arrest of each one of the accused. The initial arrest was of three accused. Thereafter, on their confession, two other accused were arrested and thereafter, on their confession, one another accused was arrested. All of them were found in possession of commercial quantity of Methamphetamine and Ephedrine.

10. It is necessary that the petitioner should satisfy the conditions under Section 37 of the NDPS Act but unfortunately, except for contending that there has been delay in the trial process, no further specific ground had



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been taken. The learned counsel for the petitioner also forwarded the case status of C.C.No. 139 of 2023 pending before the Principal Sessions Court for EC and NDPS Act Cases. But the Court cannot read much into that particular aspect as the learned Sessions Judge will have to balance all the pending cases. The chemical analysis report also confirms the presence of Methamphetamine in the samples in item_Nos. I, III & IV and the presence of Pseudoephdrine in Samples in Item Nos. II and V. Thus, the petitioner was found in possession of commercial quantity of Methamphetamine which is sufficient to frame charges against him.

11. From the materials available the Court can never come to any conclusion that the petitioner had not committed the offence alleged and will not also commit the offence if he is released. It is also the specific case of the respondent that the petitioner if released would abscond from justice and also threaten the witnesses.



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12. In view of these reasons, I am not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition stands dismissed.

11.03.2024

vsg

Index:Yes/No

Neutral Citation:Yes/No

Speaking order : Yes/No

To

1. Principal Sessions Court under EC & NDPS Act, Chennai.
2. The Inspector of Police
B-1 North Beach Police Station,
Chennai – 600 001.
3. The Central Prison, Puzhal.
4. The Public Prosecutor,
High Court of Madras.

C.V.KARTHIKEYAN, J.



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Pre Delivery Order made in
CrI.O.P.No. 527 of 2024

11.03.2024