



Crl.O.P.No.724 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2024

CORAM

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

Crl.O.P.No.724 of 2024

Karthick

...Petitioner/Accused

Vs.

The State represented by
The Inspector of Police,
Ambattur PEW,
Avadi City PEW.
(Crime No.170 of 2023)

...Respondent/Complainant

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in C.C No.699 of 2023 on the file of the respondent police.

For Petitioner : Mr.T.S.Sasikumar

For Respondent : Mr.V.J.Priyadarsana
Govt. Advocate (Crl. Side)



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Crl.O.P.No.724 of 2024

ORDER

The petitioner seeks bail in C.C.No.699 of 2023 now pending trial before the learned I Additional Special Judge, NDPS Act, Chennai.

2.Originally, the petitioner was arrested and remanded to judicial custody on 12.03.2023 for the offences punishable under Sections 8(c) r/w Section 20(b)(ii)(C) of the NDPS Act in Crime No.170 of 2023 on the file of the respondent police.

3.The learned counsel for the petitioner stated that the petitioner is arrayed as 1st accused in this case. He also stated that the petitioner would co-operate during the course of Trial and that the quantity seized is an intermediate quantity. Thus he prayed for grant of bail to the petitioner.

4.The learned Government Advocate (Criminal Side) stated that the petitioner / 1st accused was found in possession of 12 Kgs of Ganja and the 2nd accused was apprehended with 10 Kgs of Ganja. It had been further stated that it is the petitioner, who supplies the Ganja and the 2nd



Crl.O.P.No.724 of 2024

accused will sell it in retail. Charges had been framed in this case. Thus, he prayed for dismissal of this petition.

5.The earlier petition seeking bail was dismissed on 10.10.2024 in Crl.O.P.No.22010 of 2023.

6.The learned counsel for the petitioner, however, placed reliance on an order of a learned Single Judge of this Court in ***Crl.O.P.No.9448 of 2022*** dated ***28.04.2022, Mohameed Jalil Khan and Another Vs. The Inspector of Police, NIB CID, Chennai***, wherein, the learned Single Judge had observed as follows:

“5.The learned counsel for the petitioners would specifically contended that, what, was recovered from these two petitioners is not a commercial quantity, the recovery was under the two different mahazar and even according to the alleged confession statement of the first accused, the contraband was entrusted to them individually by one Amiruth Jamal. As far as these two petitioners are concerned, there is no consensus or to have joint possession of contraband.”



Crl.O.P.No.724 of 2024

WEB COPY

7.The learned counsel for the petitioner also placed reliance on an order of a learned Single Judge of this Court in ***Crl.O.P.No.24874 of 2008*** dated ***30.10.2008***, ***Suresh Vs. The Inspector of Police, Ennore Police Station, Chennai***, wherein, the learned Single Judge had observed as follows:

“3.The learned counsel further submits that Section 37 of N.D.P.S Act is not applicable in this case. Since as per the FIR it is stated that only 12 Kgs of Ganja was recovered from this petitioner and separate seizure Magazers were prepared and Ganja was seized from other accused also and for those seizure also separate Magazers were prepared.

5.As per FIR and Magazer the case of the prosecution is that totally there are four accused and each one had been in possession of Ganja separately and even according to the prosecution, the seizure was made separately from each of the accused and Magazer was prepared for each of the accused.”

8.In both the aforementioned cases, the learned Single Judges had granted bail to the respective accused.



Crl.O.P.No.724 of 2024

WEB COPY

9.Taking all these factors into consideration and the period of incarceration suffered by the petitioner and also the fact that even in this case, the quantity of Ganja seized is not commercial quantity so far as this petitioner is concerned, I am inclined to grant bail to the petitioner subject to the following conditions:

10.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 learned Judicial Magistrate, Ambattur, 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 learned I Additional Special Judge, NDPS Act, Chennai, daily at 10.30 a.m., till completion of trial, quite apart from Court hearing dates.

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



CrI.O.P.No.724 of 2024

[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.

15.04.2024

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To

1. The Judicial Magistrate, Ambattur.
2. The Central Prison, Puzhal, Chennai.
3. The The Inspector of Police,
Ambattur PEW,
Avadi City PEW.



CrI.O.P.No.724 of 2024

WEB COPY

4.The Public Prosecutor,
High Court of Madras.

C.V.KARTHIKEYAN. J.

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Crl.O.P.No.724 of 2024

Crl.O.P.No.724 of 2024

15.04.2024