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Crl.O.P.Nos. 517 & 2816 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.02.2024

PRONOUNCED ON : 11 .03.2024

CORAM

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

Crl.O.P.Nos. 517 & 2816 of 2024

Crl.O.P.No. 517 of 2024

Uppalapatti Anji

... Petitioner/
Accused No.3

Vs.

The Inspector of Police
N-3, Muthaiyalpet Police Station
Chennai District.
Crime No. 13 of 2023

... 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. 334 of 2023 pending on
the file of the learned Principal Special Court under EC & NDPS Act,
Chennai.

For Petitioner : Mr.P.Muthamizhselvakumar

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

Crl.O.P.No. 2816 of 2024



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Konda Reddy

... Petitioner/
Accused No.2

Vs.

State Rep. by
The Inspector of Police
Muthaiyalpet Police Station
Flower Bazaar,
Chennai District.
Crime No. 13 of 2023

... Respondent/Complainant

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending trial in C.C.No. 334 of 2023
pending on the file of the Principal Special Court under EC & NDPS Act,
Chennai.

For Petitioner : Mr R.Sasikumar

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

COMMON ORDER

A-2 has filed Crl.O.P.No. 2816 of 2024 and A-3 has filed
Crl.O.P.No. 517 of 2024, both in Cr.No. 13 of 2023 registered under Sections
8(c) read with 20(b)(ii)(C), 25, 29(1) of the Narcotic Drugs and Psychotropic
Substance Act, 1985. Both the accused had been remanded to judicial
custody on 25.01.2023.

2. It is the case of the prosecution that the respondent received



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information about three persons trafficking Ganja from Telangana by way of Ashok Leyland Lorry bearing Registration No. TS-04-UC 1733. It is stated that the respondent intercepted the lorry and disclosed their identity. Thereafter when a search was made in the lorry, they found that there were totally 44 kgs of Ganja in the said lorry. It had been stated that subsequently investigation had been completed and final report had been filed and taken cognizance as C.C.No. 234 of 2023.

3. The learned counsel for the petitioners stated that the petitioners do not know Tamil and that the procedures undertaken by the respondent were not translated into Telugu and explained to them. It was also contended that in the documents filed by the prosecution, there is no indication that at the time of custody and recovery of contraband, the petitioners were informed about their legal right in the language known to them, namely, Telugu. It was also contended that the previous cases were not under NDPS Act. It is also stated that in the charge sheet, it had not been disclosed from whom the petitioners had purchased the Ganja. The owner/dealer had not also been disclosed.

4. A counter affidavit had been filed on behalf of the respondent



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wherein it had been stated that on 25.01.2023, the respondents received information about illegal transportation of Ganja and had intercepted an Ashok Leyland Lorry bearing Registration No. TS-04 UC 1733. They recovered 44 kgs of Ganja. It had been stated that all the three persons, namely, the accused Nos. 1 to 3 had been taken into custody on the same day. It had been stated that the third accused has one previous case under NDPS Act pending against him. It was also stated that the investigation had been completed and final report had been filed and taken cognizance by the learned Principal Sessions Judge, EC & NDPS Act cases as C.C.No. 334 of 2023.

5. The learned Government Advocate (Crl. Side) would contend that the matter is being dragged on by the petitioners who had not even engaged any counsel. With respect to the contention that the stipulations under the NDPS Act had not been translated, it is stated that the aspects during arrest, search and recovery had been explained in Telugu by Giridharan, Grade-I Constable No. 45029, who knows Telugu. It is therefore contended that all the procedures had been followed by the respondent. It was therefore contended that the application must be dismissed.



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6. I have carefully considered the arguments advanced and also perused the Case Diary.

7. It is the case of the prosecution that they had received information about transportation of ganja in an Ashok Leyland Lorry bearing Registration No. TS – 04 UC 1733. The lorry was intercepted and the accused Nos. 1 to 3 were found travelling in the said lorry with possession of 44 kgs of Ganja.

8. The main point urged on behalf of the petitioners, who are A-2 and A-3 is that the petitioners knew only Telugu and therefore, their legal right was infringed since the proceedings were not explained in the language known to them. However, a perusal of the Case Diary reveals that at the time of initial search and seizure and arrest, the respondents were also accompanied by Grade-I Constable bearing No. 45029, Giridharan, who knew Telugu. In fact in most of the documents he had also put his signature. Whether that was sufficient compliance or not is an issue to be examined and tested during the course of trial.

9. At this stage, when the application for bail is considered. It must



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be examined whether a prima facie examination of the records, there is material to show compliance of the stipulations under the NDPS Act. It is also seen that the accused had also signed in acknowledgement of receipt of all the documents at the time of arrest, seizure and recovery.

10. The specific case of the respondent is that the Grade -I Constable Giridharan knew Telugu and that he had translated and explained to the accused the purpose for arrest, about the recovery and seizure of the contraband. The issue whether there is the signature of the said Giridharan in each and every documents is an aspect which will have to be examined during the course of trial. Quantity of ganja seized is commercial in nature which is 44 kgs. A further perusal of the records shows that in the recovery mahazar, the said Constable bearing No. 45029 had also affixed his signature as a witness.

11. In view of these facts, the primary ground urged by the learned counsel for the petitioners about the procedures not been translated into Telugu cannot be accepted at this point of time.



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12. In view of these reasons, I am not inclined to grant bail to the petitioners. Accordingly, these Criminal Original Petitions stand dismissed.

11.03.2024

vsg

Index:Yes/No

Neutral Citation:Yes/No

Speaking order : Yes/No

To

1. Principal Special Court under EC & NDPS Act, Chennai.
2. The Inspector of Police
N-3, Muthaiyalpet Police Station
Flower Bazaar,
Chennai District.
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
Crl.O.P.Nos. 517 & 2816 of 2024

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