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CrI.O.P.No. 2039 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.02.2024

PRONOUNCED ON : 28.02.2024

CORAM

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

CrI.O.P.No. 2039 of 2024

Selvaraj @ Selvam

... Petitioner/Accused No.2

Vs.

The State rep. by
The Inspector of Police
PEW Gummidipoondi Unit
Cr.No. 326 of 2023.

... Respondent/Complainant

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No. 326 of 2023 on the file
of the respondent police.

For Petitioner : Mr. P.Ponbalaji

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



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ORDER

The second accused in Crime No. 326 of 2023 registered under Section 8(c), 20(b)(ii)(B), 29(1) & 25 of NDPS Act 1985 and remanded to judicial custody on 05.09.2023, seeks bail.

2. It is the case of the prosecution that the respondent on 17.08.2023 had arrested the first accused with possession of 32 kgs of Ganja which is commercial quantity. On the confession of the first accused, subsequently, this petitioner was arrested and remanded to custody on 05.09.2023. It must also be pointed out that there is yet one more accused, A-3, who is absconding.

3. The learned counsel for the petitioner pointed out that there has been no recovery of contraband from this petitioner and the petitioner had been arrested only on the basis of confession of the first accused. In this connection, the learned counsel placed reliance on the Judgment of the Hon'ble Supreme Court in ***Crl.A.No(s). 475 of 2024 [Ramachandrulu Ramireddy Vs. State of Tamil Nadu]*** wherein the Hon'ble Supreme Court had held as follows:-



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“Going by the prosecution case, a very limited role has been ascribed to the appellant. There is no recovery made from the appellant. Moreover, the case of the prosecution is that the appellant had financed the vehicle in which the contraband was allegedly found. The appellant had provided a finance of Rs.85,000/- (Rupees Eighty-five Thousand) to Shriram Transport Finance. At highest, the role ascribed to the appellant is that he was escorting the vehicle in which the contraband was found.

Considering these peculiar facts, the appellant deserves to be enlarged on bail, pending the trial.”

4. Pointing out the aforementioned points, the Hon'ble Supreme Court, the learned counsel sought bail for this petitioner.

5. The learned Government Advocate (CrI. Side) however objected to grant of bail and pointed out that the contraband seized is 32 kgs which is commercial quantity and also that the A-3 is absconding.



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6. In the status report filed on behalf of the respondent, it had been stated that the first accused had given a confession stating that this petitioner had given a sum of Rs.60,000/- to the first accused to purchase the contraband from the third accused, who is absconding. It is therefore stated on behalf of the respondent that though steps have been taken to secure the third accused, he remains elusive. It is therefore contended that since the investigation has not yet been completed, the consideration of issue of bail will not arise for the petitioner.

7. I have carefully considered the arguments advanced.

8. It is a fact that the first accused had been remanded to custody with possession of 32 kgs of Ganja transported in a vehicle bearing Registration No. PV-10-CW-9491 coming from Andhra Pradesh to Chennai. The first accused had been arrested on 17.08.2023. Thereafter, his confession was recorded and statement recorded under Section 67 of NDPS Act. He had given a new information namely that he had received money from this petitioner to purchase the Ganja from the third accused. It is thus



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seen that this petitioner is directly involved in the purchase, transport and sale of the Ganja. Having financed the purchase, he would also be interested in selling the same for profit. Therefore, he is directly involved in all aspects, namely, financing the purchase, procurement from Andhra Pradesh from the third accused transporting it to Chennai by the first accused and if it had not been seized, selling it in the streets to innocent children or others.

9. This position of the petitioner is different from the appellant in the Judgement cited by the learned counsel for the petitioner wherein the appellant had financed the purchase of the vehicle which was used for transporting the Ganja. That vehicle could be used for any purpose. Here, the petitioner had financed the purchase of the Ganja which is a Narcotic Drug. The quantity purchased was 32 kgs which is commercial quantity. It is also seen that the third accused is still absconding. Thus, the investigation has not yet been completed.

10. In view of these facts, particularly, since the mandate of Section 37 had not been satisfied by this Petitioner, namely, that there are reasonable grounds to believe that the petitioner will be acquitted of all charges and there



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is no possibility of the petitioner ever indulging in sales of Ganja in the future,

I am not inclined to grant bail to the petitioner. Accordingly, this Petition stands dismissed.

28.02.2024

vsg

To

1. The Inspector of Police
PEW Gummidipoondi Unit
2. The Central Prison, Puzhal, Chennai.
3. The Public Prosecutor,
High Court of Madras.



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C.V.KARTHIKEYAN, J.

vsg

Pre Delivery Order made in
Crl.O.P.No. 2039 of 2024

28.02.2024