



Crl.O.P.No. 3552 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.03.2024

PRONOUNCED ON : 11.03.2024

CORAM

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

Crl.O.P.No. 3552 of 2024

Karthik @ Karthikeyan

... Petitioner/
Accused No.2

Vs.

The State rep. by
The Inspector of Police
Prohibition Enforcement Wing
Gummidipoondi
Thiruvallur District

... Respondent/Complainant

PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No. 7 of 2024 on the file of
the Inspector of Police, Prohibition Enforcement Wing, Gummidipoondi,
Thiruvallur District.

For Petitioner : Mr. B. Ganesha Moorthy

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

ORDER



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The petitioner/A-2 in Crime No. 7 of 2024 registered under Section 8(c) read with Section 22(c) and 29(1) of the Narcotic Drugs and Psychotropic Substances Act and remanded to custody on 11.01.2024 seeks bail.

2. It is the case of the prosecution that they received information on 06.01.2024 about transportation of Nitrazepam tablets IP 10 mg and they had then intercepted a BSR Travels' Private Bus bearing Registration No. NL 07 B 5544 and from the vehicle of A-1 Kuppusamy a passenger, recovered 4290 Nitrazepam tablets IP 10 mg along with one plus Nord Cell Phone. The petitioner had been implicated on the basis of the confession of the first accused.

3. It is contended by the learned counsel for the petitioner that he is totally innocent of any of the offences alleged. It had also been stated that the confession statement of the first accused cannot be taken as a substantive piece of evidence. It had also been stated that in **(2021) 4 SCC 1 [Tofan Singh Vs. State of Tamilnadu]**, the Hon'ble Supreme Court had held that a confession statement recorded under Section 67 of NDPS Act will remain



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inadmissible in the proceedings under the NDPS Act. The petitioner therefore sought bail.

4. A counter affidavit had been filed by the respondent. It had been stated that there are totally four accused in FIR in Cr.No. 7 of 2024 registered under Section 8(c) read with Section 22(c) and 29(1) of the Narcotic Drugs and Psychotropic Substances Act. It has been contended that the fourth accused was absconding.

5. In the counter affidavit, it had been stated that information had been received about transportation from Hyderabad to Chennai by BSR Travels Private Bus, banned contraband and when the vehicle was intercepted, the first accused was found in possession of 4290 tablets of Nitrazepam IP 10 mg. Samples had been taken after following due procedure. First Information Report had been registered. Thereafter, a confession was given by the first accused and he stated that the accused Nos.2 and 3 were his friends and the second accused had instructed the accused Nos. 1 and 3 to sell the contraband and earn money. They were also introduced to the fourth accused, who is a resident of Nampalli in Hyderabad.



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The first accused had gone to Hyderabad and was returning to Tamilnadu, when he was intercepted. On the statement made by the first accused, this petitioner/A2 was arrested and remanded to custody. Later, the third accused was also arrested. However, the fourth accused is absconding. It had been contended that there is every possibility of the petitioner absconding from judicial process. It had therefore been stated that the application should be dismissed.

6. I have carefully considered the arguments advanced.

7. The prime thrust of the arguments advanced by the learned counsel for the petitioner is that the petitioner had been implicated only on the basis of the confession statement given by the first accused. It is seen that from the first accused, the respondents had seized 4290 of Nitraxepam Tablets IP 10 mg, which is commercial quantity since the total weight comes to 2.43243 kgs with each tablet weighing 0.567 grams.

8. The Court had also perused the case diary.

9. A perusal of the same shows that the first accused had gone to



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Hyderabad with Rs.60,000/- paid by this petitioner for purchase of Nitrazepam tablets from the fourth accused, who is absconding. If the petitioner is a stranger to the first accused, there is no explanation as to how the first accused knew the details about this petitioner. The first accused had stated about this petitioner even at the time of the initial arrest. There could be a argument advanced that no contraband had been seized from this petitioner but it is also to be noted that the specific statement is also that the petitioner had financed the purchase of the contraband. He had paid a sum of Rs.60,000/- to the first accused. This is an aspect which will have to be investigated by the respondent. This is an issue which will have to be tested during the course of trial.

10. It is seen that the first accused had purchased the contraband from absconding accused/A-4, who was known only to this petitioner. It is also seen that during the course of investigation, the respondent had also recovered the mobile phone number of the absconding accused/A-4, with number, 7893478970. This is a fact which is known exclusive by only to this petitioner. It is also seen that the petitioner had handed over Rs.60,000/- to the first accused with specific instructions to contact the absconding accused/A-4 at Hyderabad and purchase the contraband, namely, Nitrazepam.



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There are all issues which will have to be tested during the course of trial.

11. Taking all the factors into consideration, I am not inclined to grant bail to the petitioner particularly since the contraband recovered is commercial in nature and there is a direct chain of events linking this petitioner with other accused and the purchase of the contraband from the absconding accused/A-4. Accordingly, this Criminal Original Petition stands dismissed.

11.03.2024

vsg

Index:Yes/No

Neutral Citation:Yes/No

Speaking order : Yes/No

To

1. The Inspector of Police
Prohibition Enforcement Wing
Gummidipoondi
Thiruvallur District

2. The Central Prison, Puzhal.

3. The Public Prosecutor,
High Court of Madras.

C.V.KARTHIKEYAN, J.

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Pre Delivery Order made in
Crl.O.P.No. 3552 of 2024

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