



Crl.O.P.No.4154 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.03.2024

PRONOUNCED ON : 28.03.2024

CORAM

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

Crl.O.P.No.4154 of 2024

N. Sharukhan

... Petitioner/A2

Vs.

State represented by
The Inspector of Police,
Mudaliarpet Police Station,
Puducherry District.
(Crime No.212 of 2023)

... Respondent/Complainant

PRAYER: This Criminal Original Petition filed under Section 439 of Cr.P.C., prayed to enlarge the petitioner on bail in Crime No.212 of 2023 on the file of the respondent.

For Petitioner : Mr.T.Elumalai

For Respondent : Mr.Mohandass,
Public Prosecutor,
Union Terriotry of Puducherry



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ORDER

The petitioner / A2, who was arrested and remanded to judicial custody on 26.11.2023 for the offences punishable under Sections 8(c) and 20(b)(ii)(C) of NDPS Act, 1985 in Crime No.212 of 2023 on the file of the respondent, seeks bail.

2.It is the case of the prosecution that the respondent received information on 26.11.2023 at around 4.00 PM that some persons were selling Ganja to the general public below the Over Bridge, New Bypass Road, Mudaliyarpeth, Puducherry. The Tashildar, Puducherry Taluk, was requested to depute two official witnesses. Thereafter, the respondent went to that particular place and found seven persons standing near a Maruti Swift Desire car bearing Registration No.WB-26-C-9946, a Mahindra Xylo car bearing Registration No.TN-66-J-5860, and a Honda Dio motorcycle bearing Registration No.TN-32-AL-8948 with a brown plastic cover in their hands and selling some bundles to young persons. On seeing the police, all the persons tried to escape. Six persons were apprehended. They included the



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present petitioner. From all the persons so intercepted, a search was made after following due procedure and 45 Kgs of Ganja in 22 bundles each containing 2 Kgs and 1 bundle containing 1 Kg were recovered. Thereafter, the respondent followed further procedure of arrest, seizure and taking samples. It had been specifically stated that this petitioner, was engaged in selling of Ganja as his permanent job. It had also been stated that two of the accused are still absconding. It had been stated that witnesses will have to be examined and that the investigation is at a crucial stage. It had therefore been stated that this petition seeking bail should be dismissed.

3.In the petition seeking bail, it had been stated that the petitioner was illegally restrained and taken from his house on 25.11.2023 at around 8.00 PM by the respondent. It was also stated that the Honda Dio scooter bearing Registration No.TN-32-AL-8948 was taken by the respondent from the possession of one Mubarak S/o. Shameer. It had been stated that this had been witnessed by the general public and also recorded in CCTV camera. It had been stated that the petitioner was taken to the Villupuram Town Police Station in a white colour Mahindra Bolero Jeep bearing Registration No.PY-01-G-9244. It had been stated that a false case had been registered against



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the petitioner. It had been stated that the respondent had also seized a mobile phone from the said Mubarak and had later returned the same. A complaint was also lodged by the said Mubarak before the Superintendent of Police, Villupuram District. It had been stated that the petitioner was not connected with any of the allegations.

4. Along with the petition, documents were also filed namely, CCTV camera footage grabs and affidavits of various individuals of the general public, who apparently had witnessed the taking in custody of the petitioner on 25.11.2023. The learned counsel therefore stated that the entire case is a false case and urged that this Court should grant bail to the petitioner.

5. I have carefully considered the arguments advanced.

6. It is relevant to point out that this petitioner had filed Crl.M.P.No.5056 of 2022 before the Special Court under NDPS Act, Puducherry, seeking bail. That application had been dismissed by an order dated 04.01.2024. A reading of that order does not reveal that the petitioner had taken a stand that he had been illegally taken into custody on 25.11.2023.



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7.It must also be stated that the petitioner had earlier filed Crl.O.P.No.744 of 2024 before this Court and this Court had dismissed the same by order dated 23.01.2024. Even in that petition, the petitioner had not stated that he had been taken into custody on 25.11.2023. The learned counsel for the petitioner had however argued that the petitioner had been arrested on 25.11.2023. But that argument had been rejected by this Court.

8.The same contentions have been raised again. I am confident that during trial, the petitioner would be granted ample opportunity to produce relevant oral and documentary evidence.

9.The respondent had seized contraband of 45 Kgs of Ganja which is commercial quantity. The petitioner will have to satisfy the conditions stipulated under Section 37(2) of NDPS Act. He will have to satisfy that there are reasonable grounds available to hold that the petitioner is not guilty of the offence.



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10.I am not able to concur with the submissions made by the learned counsel for the petitioner that the petitioner was not arrested at the time and place as stated by the respondent. The respondent are also possessed of documents showing arrest and seizure of the contraband. It is for the petitioner to question those documents during the course of trial.

11.Observing as above, I am not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition stands dismissed.

28.03.2024

smv

Index : Yes / No

Neutral Citation : Yes / No

Speaking order : Yes / No



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To

1. The Inspector of Police,
Mudaliarpur Police Station,
Puducherry District.
2. The Public Prosecutor,
High Court of Madras.



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C.V.KARTHIKEYAN, J.

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