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Crl.R.C.Nos.878 & 906 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 10.06.2024**

CORAM:

**THE HONOURABLE MR. JUSTICE M.DHANDAPANI**

Crl.R.C.Nos.878 & 906 of 2024

1.V.Mangal Kurun @ Mangal Karun

... Petitioner/A4 in  
Crl.R.C.No.878 of 2024

2.M.Mohammed Aman

... Petitioner/A2 in  
Crl.R.C.No.906 of 2024

-Vs-

State, Rep. by,  
The Inspector of Police,  
K-4, Anna Nagar Police Station,  
Chennai.  
(Crime No.39 of 2024)

... Respondent in both Crl.R.Cs

**Prayer in both Crl.R.Cs:** Criminal Revision Petitions filed under Section 397 r/w 401 of Code of Criminal Procedure, praying to set aside the order passed in Crl.M.P.No.3928 of 2024 dated 29.04.2024 on the file of the Principal Special Judge under EC & NDPS Act, Chennai.

For Petitioner : Mr.S.Apunu  
(in both Crl.R.Cs)

For Respondent : Mr.A.Gopinath  
(in both Crl.R.Cs) Government Advocate (Crl.Side)

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### **COMMON ORDER**

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Though the above criminal revision cases were listed as different matters in the cause list, since the issue involved in both the revision being one and the same, with the consent of the learned counsel appearing for both sides, these revisions were heard together and disposed of by this common order.

2. The petitioners were arrested and remanded to judicial custody on 14.02.2024 for the offences u/s 8(c) r/w 20(b) (ii) (B), 22(b) and 29(1) of NDPS Act, 1985 in Crime No.39 of 2024 on the file of the respondent police. The petitioners are arrayed as A4 and A2 in this case. The case of the prosecution is that the petitioners were found in illegal possession of 400 Pyeevon Spas Plus tablets and 50 Nitcor tablets and 1.150 kilograms of ganja and 80 Pyeevon Spas Plus tablets respectively. Thereafter, they have filed a petition in Crl.M.P.No.3928 of 2024 before the Principal Special Court under EC & NDPS Act, seeking to enlarge them on statutory bail and the same was dismissed vide impugned order dated 29.04.2024. Challenging the same, the petitioners have filed the present revisions before this court.



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3. The learned counsel appearing for the petitioner in both the revisions submitted that the petitioners herein are innocent and in this case, already A3 was granted bail by this court on the ground that A3 and other accused possessed an intermediate quantity, whereas the law enforcing agency filed counter stating that the petitioners were in possession of commercial quantity. Further, though the law enforcing agency stated that the contrabands seized from the petitioners are commercial quantity, which are coming under Schedule 33 and 221 of NDPS Act, however, a perusal of the Schedule 33 and 221 of Narcotic drugs and Psychotropic Substance reveals that the substances mentioned in the said schedule is different from the drugs seized by the law enforcing agency from the petitioner. Schedule 33 and 221 is Dextropropoxyphene and Nitrazepam, whereas the quantity seized from the petitioners are Pyeevon Spas Plus and Nitcor tablets, which were not mentioned in the above said schedule. Accordingly, he prays for appropriate orders.

4. The learned Government Advocate (Crl.Side) appearing for the respondent filed counter stating that the respondent arrested the accused viz., A6 to A8 and recorded their confession statement and also seized



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contrabands from the accused persons A6 to A8 under cover of seizure mahazar in the presence of witnesses. Then, he had produced the arrested accused persons A1 to A8 before the court below and remanded them into judicial custody. Further, on 21.02.2024, the respondent produced the seized properties such as cell phone and contrabands from the accused persons before the court below and the same was taken on file vide A.No.258 of 2024 and B.No.150 of 2024 dated 21.02.2024. He further submitted that the specific overtact of the accused is as follow:-

| S. No | Accused          | Contraband seized               | Commercial/ Non-Commercial | NDPS Schedule No | Chemical Report    |
|-------|------------------|---------------------------------|----------------------------|------------------|--------------------|
| 1     | Ammeth Barki/A1  | 120 Grams Ganja                 | Intermediate Quantity      | 55               | Yet to be obtained |
|       |                  | Pyeevon Spas Plus – 104 tablets | Commercial Quantity        | 33               |                    |
| 2     | Mohammad Aman/A2 | 1.150 Kilograms Ganja           | Intermediate Quantity      | 55               |                    |
|       |                  | Pyeevon Spas Plus – 80 tablets  | Commercial Quantity        | 33               |                    |
| 3     | Rajib Sarkar/A3  | 100 Grams Ganja                 | Intermediate Quantity      | 55               |                    |
|       |                  | Pyeevon Spas Plus – 400 tablets | Commercial Quantity        | 33               |                    |
| 4     | Mangal Kurun/A4  | Pyeevon Spas Plus – 400 tablets | Commercial Quantity        | 33               |                    |
|       |                  | Nitcor – 50 tablets             | Commercial Quantity        | 221              |                    |
| 5     | Bibekroy/A5      | Pyeevon Spas                    | Commercial                 | 33               |                    |



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| S. No | Accused            | Contraband seized   | Commercial/ Non-Commercial | NDPS Schedule No | Chemical Report |
|-------|--------------------|---------------------|----------------------------|------------------|-----------------|
|       |                    | Plus – 400 tablets  | Quantity                   |                  |                 |
|       |                    | Nitcor – 50 tablets | Commercial Quantity        | 221              |                 |
| 6     | Rajkumar/A6        | 1.400 Kgs Ganja     | Intermediate Quantity      | 55               |                 |
| 7     | Ravi Pasvan/A7     | 600 Grams Ganja     | Intermediate Quantity      | 55               |                 |
| 8     | Rajkumar Kuldip/A8 | 600 Grams Ganja     | Intermediate Quantity      | 55               |                 |

4.1. Further, he submitted that through proper channel, on 23.02.2024 the respondent sent the samples of contrabands to Forensic Science Laboratory, Chennai for chemical analysis and the report is yet to be received.

5. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.Side) appearing for the respondent and also perused the materials available on record.

6. Considering the facts and circumstances of the case and also considering the fact that the substances which was recovered by the law enforcing agency from the petitioners were not mentioned in the Schedule



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33 and 221 of Narcotic drugs and Psychotropic Substance Schedule, this court is inclined to dispose of these revisions on the following terms :-

(i) the petitioners are ordered to be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties each for a like sum to the satisfaction of the learned Principal Special Judge under EC & NDPS Act, Chennai;

(ii) 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;

(iii) the petitioners shall report before the respondent police daily at 10.30 a.m., until filing of charge sheet;

(iv) the petitioners shall not abscond either during investigation or trial;

(v) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(vi) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]**; and;



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(vii) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

7. Further, liberty is granted to the respondent police to file a petition for cancellation of bail before this court, if the expert chemical analysis report reveals that the substances recovered from the petitioners are commercial quantity as per the above mentioned schedule.

8. With the above observations and directions, these Criminal Revision Cases are allowed.

**10.06.2024**

Index : Yes/No  
Speaking order / Non-speaking order  
NCC : Yes/No  
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To

- 1.The Principal Special Judge under EC & NDPS Act, Chennai.
- 2.The Inspector of Police, K-4, Anna Nagar Police Station, Chennai.
- 3.The Central Prison, Puzhal.
- 4.The Public Prosecutor, High Court, Madras.



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**M.DHANDAPANI, J.**

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