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CRL O.P. No.15777 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2024

CORAM

The Hon'ble Mr. Justice P.DHANABAL

CRL OP.No.15777 of 2024

Z. Jafar Husain Zaidi
S/o. Zaki Hussain Zaidi

... Petitioner/2nd Accused
Vs

State rep. by:-

The Intelligence Officer,
Directorate of Revenue Intelligence,
27, G.N. Chetty Road, T.Nagar,
Chennai-600 017.
[R. R. No.7 of 2023]

... Respondent

PRAYER: - The Criminal Original Petition is filed under Section 439 of Cr.P.C., praying to grant bail to the petitioner/Accused in R.R. No.7 of 2023 on the file of the respondent police in C.C. No.986 of 2023 on the file of I Additional Court, Special Court for exclusive trial of cases under NDPS Act at Madras.

For Petitioner : Mr. M.G. Martin Manivannan
For Respondent : Mr. N.P. Kumar
Special Public Prosecutor for
Directorate of Revenue
Intelligence.

ORDER



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The petitioner /2nd Accused, who was arrested and remanded to judicial custody on 06.03.2024 for the offences punishable under sections 8(c) & 29(1) of NDPS Act in R.R. No.7 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that 05.03.2023, A1 Anil Balkisandas Goradia, at the arrival hall of Chennai International Airport, found in possession of light pale yellow colour powdery substance in polythene covers totally weighing about 8.098 kgs, believed to be heroin, a narcotic drug covered under NDPS Act, 1985. The said substance was deeply concealed in a trolley suitcase carried by A1, in contravention of provisions of Section 8(c) of NDPS Act and the said suitcase was supposed to be delivered the petitioner herein at Hotel OPO Alpine Tree, A-65, Mahipalpur, NH 08, near IGI Airport, New Delhi. Hence, the case.

3. The learned counsel for the petitioner would contend that the respondent police have filed this false case against the petitioner and he has not committed any offence and he is an innocent and he was arrested



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and remanded to judicial custody on 06.03.2023, that the petitioner is A2 in this case and the entire contra band was seized from A1 and even according to the prosecution, he only arranged room for A1 in New Delhi. As per the prosecution case, the petitioner was said to have waited and watching the hotel for the arrival of A1 and there is no previous case pending against the petitioner. Therefore, he prayed to grant bail to the petitioner.

3(i) The learned counsel appearing for the petitioner has relied upon the following judgments:

(a) Santosh Kumar @ Santosh vs. State of Bihar in Crl. A. No.3011 of 2024 on the file of the Hon'ble Supreme Court of India.

(b) Ganesh Moorthy vs. State represented by the Inspector of Police in Crl. S.L.P. No.3833 of 2023 on the file of the Hon'ble Supreme Court of India.

4. The learned Special Public Prosecutor for Directorate of Revenue Intelligence appearing for the respondent would contend that



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the petitioner is A2 and he has knowingly involved himself in conspiracy with other accused for procuring, possessing, concealing and transporting narcotic drug for a monetary consideration involving commercial quantities. In fact, the contraband involved in this case is 8.098 kgs, which is commercial quantity. A1, the main accused transported the said contraband and he was arrested at Chennai International Airport and this petitioner only booked room in New Delhi at OPO hotel near IGI Airport, New Delhi for the main accused in the name of Shri Anil Goradia and for which, he paid a sum of Rs.2,500/- in cash as rent and there are so many whatsapp messages between the main accused and this petitioner. Therefore, the petitioner has directly participated in the occurrence. Hence, he strongly opposed to grant bail to the petitioner.

5. Heard both sides and perused the materials available on record.

6. Considering the rival submissions made on both sides, considering the fact that the no property was recovered from this petitioner and the contraband was only possessed by the main accused



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A1 and this petitioner is arrayed as an accused based on the confession statement given by the co-accused, that there is no previous case against the petitioner, considering the incarceration period underwent by the petitioner from 06.03.2023, considering the judgments relied on by the learned counsel appearing for the petitioner and also considering the fact that investigation is completed, I am inclined to grant bail to the petitioner, subject to the following conditions:

[a] Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties each for a like sum to the satisfaction of the **I Additional Court, Special Court for exclusive trial of cases under NDPS Act at Madras** and on further conditions that:

[b] the petitioner shall report before the I Additional Court, Special Court for exclusive trial of cases under NDPS Act at Madras daily at 10.30 A.M. until further orders.

[c] the petitioner shall not commit any offence similar to the offence of which he is accused, or suspected, or of the commission of which he is suspected;



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[d] the petitioner shall not abscond either during investigation or trial;

[e] the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence;

[f] On breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 B.N.S.

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index: Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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To

1.The I Additional Court, Special Court for exclusive trial of cases under NDPS Act at Madras.

2.The Intelligence Officer,
Directorate of Revenue Intelligence,
27, G.N. Chetty Road, T.Nagar,
Chennai-600 017.

3.The Superintendent,
Central Prison, Puzhal, Chennai.

4.The Public Prosecutor, High Court, Madras.

P.DHANABAL,J
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