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CRL.R.C.No.1155 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL.R.C.No.1155 of 2024

Bibek Roy

... Petitioner/A5

-Vs-

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

... Respondent

Prayer: Criminal Revision Petition 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.M.G.Martin Manivannan

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)



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ORDER

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The Criminal Revision Case is filed against the order passed in Crl.M.P.No.3928 of 2024 dated 29.04.2024 by the learned Principal Special Judge, Special Court for EC & NDPS Act, Chennai.

2. The petitioner was arrested and remanded to judicial custody on 14.02.2024 for the offences under Sections 8(c), 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 petitioner is arrayed as A5 in this case. The case of the prosecution is that the petitioner and other accused persons were found in illegal possession of 1384 Pyeevon Spas Plus tablets and 130 Nitcor tablets and 3.970 kilograms of ganja respectively. Thereafter, he has filed a petition in Crl.M.P.No.3928 of 2024 before the Principal Special Court under EC & NDPS Act, Chennai, seeking to enlarge him on statutory bail and the same was dismissed vide impugned order dated 29.04.2024. Challenging the same, the petitioner has filed the present revision before this court.



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3. The learned counsel appearing for the petitioner submitted that the petitioner herein is an innocent person and in this case, already A2 to A4 were 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 petitioner was in possession of commercial quantity. Further, though the Law Enforcing Agency stated that the contraband seized from the petitioner is a commercial quantity, which is 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 are 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 petitioner 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	



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S. No	Accused	Contraband seized	Commercial/ Non-Commercial	NDPS Schedule No	Chemical Report
5	Bibekroy/A5	Pyeevon Spas Plus – 400 tablets	Commercial Quantity	33	
		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 petitioner 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



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Enforcing Agency from the petitioner were not mentioned in the Schedule 33 and 221 of Narcotic drugs and Psychotropic Substance Schedule, this

Court is inclined to dispose of this revision on the following terms :-

(i) the petitioner is ordered to be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two blood sureties for a like sum to the satisfaction of the learned Principal Special Judge, Special Court for 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 petitioner shall report before the respondent police daily at 10.30 a.m., until filing of charge sheet;

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

(v) the petitioner 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 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



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in **P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]**; and;

(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 report of the expert chemical analysis reveals that the substances recovered from the petitioner are commercial quantity as per the above mentioned schedule.

8. With the above observations and directions, the Criminal Revision Case is allowed.

05.07.2024

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

To

- 1.The learned Principal Special Judge, Special Court for EC & NDPS Act, Chennai.
- 2.The Inspector of Police, K-4, Anna Nagar Police Station, Chennai.



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3.The Central Prison, Puzhal.

4.The Public Prosecutor, High Court, Madras.

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M.DHANDAPANI, J.

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