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Crl.O.P.No.18793 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.09.2024

CORAM

**THE HONOURABLE Mr. JUSTICE A.D. JAGADISH CHANDIRA, J.**

**Crl.O.P.No.18793 of 2024**

Rabindra Pani

...Petitioner

Vs.

State Rep by  
The Inspector of Police,  
NIB CID Chennai,  
Crime No.11 of 2023.

...Respondent

**Prayer:** Petition is filed under Section 483 BNSS 2023, to enlarge the petitioner on bail, in the case pending investigation in C.C.No.712 of 2023, on the file of the Principal Special Court, under EC & NDPS Act, Chennai.

For Petitioner : Mr. R.Thamarai Selvan

For Respondent : Mr. V.Meganathan  
Government Advoacte (*Crl. Side*).



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## **ORDER**

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The petitioner, who was arrested and remanded to judicial custody on 06.03.2023 for the offences under Sections 8(c) r/w 20(b)(ii) (C) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.11 of 2023, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 06.03.2023, on receipt of a secret information regarding illegal transportation of ganja, the Respondent along with his team, had gone to the perambur railway station, wherein, they found that the accused was in illegal possession of 36 kilograms of Ganja. Hence the case.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and has been falsely implicated in this case. He would submit that the petitioner is in custody from 06.03.2023. This Court while dismissing earlier application for bail in Crl.O.P.No.22630 of 2023 had directed the Trial Court to complete the Trial as expeditiously as possible, preferably within a period of eight months. He would further



submit that in this case at the time of remand of the accused, the Police have produced contraband along with Form – 91. The Magistrate had returned the contraband to the Police to produce it before the Court on the next day. However, it has been produced before the Court after much delay.

4. The learned counsel for the petitioner would submit that in the similar situation in Crl.O.P.No.20750 of 2022, this Court taking into consideration the delay in producing the contraband had granted bail to the petitioner. The learned counsel for the petitioner would submit that the petitioner is in custody since 06.03.2023, despite which Trial has not been commenced so far. Therefore, bail may be granted considering his long incarceration.

5. Per contra, the learned Government Advocate would submit that it is the case where the petitioner was found to be in possession of 36 kgs of ganja along with two other accused, which is commercial quantity and has been recovered. He would submit that the case in Crl.O.P.No.20750 of 2022 is different from the case of the petitioner. He would further submit that the petitioner has also got yet another case under the NDPS Act. This



Court finding that the petitioner has not satisfied with the condition required under Section 37 of the NDPS Act has rightly rejected the petition.

6. He would further submit that non-bailable warrant was issued against a co-accused and later it was recalled on 18.09.2024. Thereafter, the co-accused was directed to appear before the Court on 24.09.2024 and due to his non appearance, the Trial Court has once again issued non-bailable warrant of arrest and the delay is on account of the non appearance of the co-accused and the prosecution cannot be blamed for the delay. He would submit that there are only 14 witnesses in this case. If the Trial Court directs for split up of the case, the Police is ready to comply with the direction issued by this Court.

7. The petitioner is alleged to be found in possession of the 38 Kgs of ganja along with two other accused, which is commercial quantity. It is the case of the petitioner that in similar situation, on account of contraband being sent to the Court with delay the accused was granted the bail. The facts of that case is different from the facts of this case. As far as this petitioner is concerned, he has got previous case under the NDPS Act. This



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Court finds that the petitioner has not satisfied with the required conditions under Section 37 of the NDPS Act for grant of bail. Therefore, the petition is dismissed. No costs.

8. However, taking into consideration the long incarceration of the petitioner, direction is issued to the Trial Court to complete the Trial within a period of six months from the date of receipt of a copy of this order. It is made clear that if the other accused are absconding, the Trial Court can split up the case as against the petitioner and complete the Trial.

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Index : Yes/No  
Internet : Yes/No  
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**A. D. JAGADISH CHANDIRA, J.**

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