



Crl.O.P.No.25533 of 2024

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C.V.KARTHIKEYAN, J.

The petitioner, who was arrested and remanded to judicial custody on 28.07.2023, registered by the respondent Police for the offences under Section 8(c), read with 20(b), (ii), (A), 21(c), 22(c) and 29 of NDPS Act, in C.C.No. 324 of 2024, seeks bail.

2. On 26.07.2023, information had been received by the respondent that two Nigerian citizens would be carrying huge quantity of Narcotic Drugs (Cocaine / LSD) and would be delivering the same to an Indian National, who was named, namely, the petitioner herein Yogarajulu and that the said transfer of Narcotic Drugs would take place near Rohini Theatre in Koyambedu, Chennai, between 06.30 a.m., and 08.00 a.m., on that day itself. Thereafter, a team of the respondents had assembled at that particular place at that time. They notice a private bus which arrived at that the place and two Nigerian citizens. A-1 and A-2



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alighting from the same and this petitioner talking with them. This fact had been noted in the seizure mahazar on 26.07.2023 which had been recorded from 06.15 a.m., onwards. It had been very specifically recorded that this petitioner/A-3 was talking with the two Nigerian citizen. If this petitioner had been a stranger to them, he need not have engaged in conversation with two strangers and unknown persons. At that time, when the conversation was taking place among the three individuals, the respondent encircled them and took them into custody.

3. The learned counsel for the petitioner stated that from the possession of the petitioner, no Narcotic Drug and LSD substance was seized. That factor becomes immaterial since he was in the process of receiving the Narcotic Drugs. He was in conversation with A-1 and A-2, who were marketing the Narcotic Drugs. At that particular point of time, in order to prevent all of them from escaping and disappearing away, the respondent had taken a decision to encircle them and had taken them into custody. Therefore, non possession of Narcotic Drugs with the petitioner pales into insignificance. With A-1 and A-2 with whom the petitioner/A-



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3 was in active conversation, the respondent had seized 30 lots of LSD Strips weighing 0.31 grams. They also seized Hashish (Charas) of 10 grams and 78 grams of Cocaine. Independently each one of the drugs which had been seized are of commercial quantity and totally, they are of more than commercial quantity with considerable value in the international market.

4. The learned counsel for the petitioner disputed the very arrest of the petitioner herein by stating that the petitioner had been taken into custody on 24.07.2023 itself. In this connection, along with the petition seeking bail he had produced call details records of the telephone of the petitioner, namely, 9884118191. According to the learned counsel, the call details emanating from that particular telephone on 24.07.2024 at 3.22.15.2.26 hours and again at 15.22.30 hours and again at 15.22.31 hours were from LIG-II Type TNHB 6839, Ayapakkam, Ambattur, Chennai. It is contended that that particular address is the address of the respondent and therefore, it is contended that the petitioner was in custody under the respondent even on 24.07.2023.



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5. It is seen from the same details as provided by the petitioner, it is seen that all those three from SMS received to the phone of the petitioner herein from and unknown number VMBFDLPSVT 61123 (II Types). Therefore, it was not the petitioner who was making calls from that particular location but he had received SMS and all those three SMS are irrelevant. The address given is not the address of the respondent. The address of the respondent is in Ayapakkam but in a different address. The call details do not reveal where the petitioner's phone was. It only reveals from where the SMS were sent. Therefore, the contention of the petitioner that the petitioner was in custody of the respondent on and from 24.07.2023 cannot be countenanced and accepted by this Court.

6. It is stated that the call details of the petitioner are available in past six months and that only on 24.07.2023 and 26.07.2023 alone, he had been in Ayapakkam. It is for the petitioner to explain his presence at Ayapakkam.



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7. Further even if the petitioner was in illegal custody from 24.07.2023 at 03.22 p.m., the information which had been received by the respondent was only at 06.15 a.m., on 26.07.2023. Therefore, there cannot be any co-relation between the petitioner's movement on 23.07.2023 and the information received by the respondent on 26.07.2023 at 06.15 a.m.

8. It is also seen that from the family members of the petitioner, no complaint had been lodged that he had been missing in the night on 24.07.2023 and again in the night on 25.07.2023. The said statement by the petitioner in his application seeking bail are therefore rejected by this Court.

9. The learned counsel for the petitioner alleged that the respondent have deliberately foisted a false case. It must be noted that in the year 2017, there had been an earlier case registered against the



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petitioner herein. If the allegation is to be accepted, it would indicate that after six years, the respondent had gone searching for the petitioner to file a false case against him. That defies logic.

10. The learned counsel for the petitioner further argued that the petitioner was not in conscious possession of any contraband. The petitioner had no opportunity of being in possession much less in conscious possession because he was in conversation with A-1 and A-2. There was no necessity for the petitioner to be near Rohini Theatre at Koyambedu early in the morning on 26.07.2023 and even if he was there at 06.15 a.m., near Rohini Theatre at Koyambedu on 26.07.2023, there was no reason for him to converse with the two Nigerians of all the 100 to 1000 of people, who were there in the street at that time. It was just the three of them who were in conversation with each other and among the three, A-1 and A-2, the two Nigerians were found in possession of 30 lots of LSD strips, the weight is 0.31 grams which is commercial quantity of 10 grams of Hashish (Charas) which is commercial quantity and 78 grams of Cocaine which is certainly commercial quantity.



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11. The learned counsel for the petitioner stated that the petitioner is a TAMILIAN and therefore, the Court should consider to grant bail. But the Court should also consider the number of TAMILIANS who would be affected by getting addicted to the drugs which are not only psychologically addictive but also physically addictive by the marketing of these drugs by the petitioner.

12. The Court has to consider the danger to the society and the implications which sale of these contraband would cause on the society. A large number of those affected would only be TAMILIANS. Therefore, that particular argument of the learned counsel for the petitioner is rejected.

13. The learned counsel for the petitioner also stated that the petitioner has been in custody on and from 28.07.2023 for a period nearly 430 days.



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14. Section 37 of the NDPS Act makes it very clear that the petitioner must make out a case that he would not be guilty and that there is a strong possibility of being acquitted on conclusion of trial. No such probability had been raised except for production of the call details which details are themselves suspicious. When the Investigation Officer grazes the witness box, the petitioner can very well cross examine him about all these circumstances but at this stage of consideration of the bail application, seriousness of the offence and the possibility of the petitioner absconding from justice and the possibility of the petitioner repeating the same finding once again will have to be examined. Even according to the learned counsel for the petitioner, the petitioner has an earlier case dealing with drugs and therefore, possibility of the petitioner indulging himself in similar offence in future cannot be ruled out.

15. Accordingly, this Petition stands dismissed.

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