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CRL O.P. No.24514 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.10.2024

CORAM

The Hon'ble Mr. Justice P.DHANABAL

CRL OP.No.24514 of 2024

1. Nabeel S/o. Nasar
2. Jamsheed S/o. Abul Rasheed ... Petitioners / Accused 1 & 2
Vs

State rep. by:-

The Inspector of Police,
Karimangalam Police Station,
Dharmapuri District. ... Respondent
[Cr. No.228 of 2023]

PRAYER:- The Criminal Original Petition is filed under Section 483 of
B.N.S.S., praying to grant bail to the petitioners / Accused-1 & 2 in Cr.
No.228 of 2023 on the file of the respondent police.

For Petitioners : Mr. R.C. Paul Kanagaraj

For Respondent : Mr.S. Vinoth Kumar
Government Advocate [Criminal side]

ORDER

The petitioners / Accused-1&2, who were arrested and remanded
to judicial custody on 17.06.2023 for the offences punishable under



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Sections 8(c) read with 20(b)(ii)(C) of the NDPS Act in Cr. No.228 of 2023 on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 16.06.2023, based on the secret information, the Special Inspector of Police along with his team went to the scene of occurrence near Service Road, Periyampatti, Krishnagiri to Dharmapuri Road and found the accused persons 1 and 2 were standing near their Maruthi Swift Car bearing Registration No.KL46 H 4497 and were illegally selling the contraband and when they were enquired and searched, they were found in illegal possession of 30 kgs of Ganja, which is a commercial quantity. Hence the case.

3. The learned counsel for the petitioner would contend that the respondent police have registered a false case against the petitioners for the offences under Sections 8(c) read with 20(b)(ii)(C) of the NDPS Act and the petitioners were arrested and remanded to judicial custody on 16.06.2023, that false case has been registered against the petitioners. As per the FIR, the time of registration of FIR is 20.30 hours, but in the Mahazar, they have mentioned about the crime number, which is prior to



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the FIR and the quantity also differs and therefore, the police have foisted a false case against the petitioner and he is in judicial custody for the past one and half years and there are procedural violations in this case. Hence, he prayed that the petitioners may be released on bail.

3(i) In support of his contention, the learned counsel appearing for the petitioners has relied upon judgment of this Court in Crl. O.P. No.10395 of 2024.

4. The learned Government Advocate (Criminal Side) would submit that this petitioner along with other accused had illegally transported 30 kgs of ganja in their car and these petitioners were caught red handed with contraband and already investigation was completed and now the case is posted for trial and already this Court also dismissed the bail application filed by the petitioners and there is no change of circumstances and the petitioners have not fulfilled and satisfied the conditions under Section 37 of the NDPS Act and hence he strongly opposed to grant bail to the petitioners.



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

6. Considering the rival submissions on either side, considering the grave nature of offences and considering the fact that the quantity of materials involved in this case is a commercial quantity and already this Court dismissed the earlier bail application filed by the petitioners and there is no change of circumstances, now the case is posted for trial, that the arguments of the learned counsel appearing for the petitioners that there are procedural violations and there is difference in the quantity mentioned in the FIR and Mahazar and the fact that the Mahazar shows the crime number of the case, which is prior to the registration of FIR, have to be agitated before the Trial Court and it is the matter of trial and also considering the fact that the petitioners have also not satisfied the conditions under Section 37 of the NDPS Act and further, on careful perusal of the judgment relied on by the learned counsel appearing for the petitioners, it is clear that it will not be applicable to the present facts of the case as the facts are distinguished, I am declined to grant bail to



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the petitioner at this stage.

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7. Accordingly, the criminal original petition is dismissed.

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

- 1.The IV Additional District Judge, Special Court for EC / NDPS Act Cases, Salem.
- 2.The Public Prosecutor, Madras High Court, Chennai.
3. The Inspector of Police, NIB CID Police Station, Chennai.

P.DHANABAL,J

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