



CrI.O.P.No.26651 of 2024

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T.V.THAMILSELVI, J.

The petitioner, who was arrested and remanded to judicial custody on 14.02.2023 for the alleged offence under Sections 8 (c) r/w 20 (b) (ii)(C), 28 and 29(1) of NDPS Act, pending trial in C.C.No. 696 of 2023 on the file of I Addl. Special Court under NDPS Act, Chennai in R.R. No.3 of 2023, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on a secret information about the illegal transportation of ganja, the respondent police along with his team went to the scene of occurrence and intercepted the petitioner's vehicle, which was driven by him. The other accused have escorted the consignment of seized narcotics and on search, they have found that they were in possession of 438.400 kg. of ganja on roof top cavity of said vehicle, which was seized by them. Hence, the complaint.



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3. The learned counsel for the petitioner submitted that this is the second petition seeking for bail and he is in judicial custody for more than 1 year 9 months from 14.02.2023. He would submit that the petitioner is being a driver of the vehicle, he has no knowledge about the transportation of contraband. He would submit that A4 only bought the contraband. He would submit that totally, there are 4 accused involved in this case, in which three accused were released on bail by the Apex Court. He would submit that he is an innocent person and he is no way connected with the case. He would submit that he has not at all committed any offence as alleged by the respondent police and there is no property recovered from this petitioner. He would submit that the investigation is almost completed and he would abide by any condition that may be imposed by this court. He would submit that A1 brought a tempo traveller bearing Regn. No. AP-05 TA-4428 and one Narala Sathyanarayana/A3 accompanied with the driver and the other accused have escorted the consignment and while reaching Chennai, the respondent police interpreted the vehicle and seized the contraband. Hence, he prayed to grant bail to the petitioner.



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4. The learned Special Public Prosecutor appearing for respondent would submit that the contraband of 438.400 kgs. of ganja, which is a commercial quantity, was recovered from the car, which was driven by this petitioner. He would submit that he is arrayed as A1 in this case and upon the request of the seizing officer, the petitioner had himself opened the middle portion of roof top with the help of a screw driver and a large seize in-built cavity concealing a number of 197 nos. of ganja packets is cuboidal shape and wrapped in brown adhesive tape was found stashed inside said cavity. It is denied that the petitioner is innocent, as during the time of seizure of 438.400 kgs. of ganja, it is clearly mentioned in the mahazar dated 11.02.2023 that the petitioner has driven the said vehicle and also that he has accompanied with A3, which was witnessed by the independent witnesses at the time of seizure.

5. The learned Special Public Prosecutor appearing for respondent would further submit that A2 was enlarged on bail by the Apex Court in



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Crl.A. No. 475 of 2024 in SLP (Crl.) No.12929 of 2023 dated 29.01.2024, but on various grounds as considered by the Apex Court viz., limited role of A2 as the said accused had financed Rs.85,000/- to Shriram Transport Finance for purchase of said vehicle for carrying the contraband and also that he was escorting the vehicle with contraband, but no previous criminal antecedent of A3 etc. With regard to the petitioner, it is submitted that he was intercepted on the driving seat and in physical possession of 438.4 kgs. of ganja that was being transported by the vehicle on 11.03.2024. Therefore, keeping aside the abovesaid bail orders as granted by the Apex Court in the instant case, the role of the petitioner is clearly as the main carrier, who was caught with physical possession of seized contraband. The petitioner was also working with other co-accused under a criminal conspiracy to transport seized contraband from Andhra Pradesh to Chennai. So, he is in possession of contraband and he is the main person opened the box and handed over the contraband to the officer.

6. The learned Special Public Prosecutor would also submit that during analysis of CDR of mobile No. 9676994911 of accused Penke Sathi



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Raju, it was showed that he was continuously in contact with this petitioner and the mobile No. 79971 16771 is registered in the name of this petitioner. So, he is the person, who knows everything, since he himself opened the box and he had frequent call with other other accused and indulged in illegal transporting 438.400 kgs. of ganja on the roof top cavity of the said vehicle. He would submit that if he is released on bail, he would tamper the witnesses and hamper the investigation. Hence, he vehemently opposed to grant bail to the petitioner.

7. On perusal of counter objections, it reveals that the contraband of 438.400 kgs. of ganja, which is a commercial quantity, was recovered from the car, which was driven by this petitioner. It would also revealed that upon the request of the seizing officer, the petitioner had himself opened the middle portion of roof top with the help of a screw driver and a large seize in-built cavity concealing a number of 197 nos. of ganja packets is cuboidal shape and wrapped in brown adhesive tape was found stashed inside said cavity. Moreover, the learned Special Public Prosecutor denied the fact that the petitioner is innocent, since during the time of seizure of



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438.400 kgs. of ganja, it is clearly mentioned in the mahazar dated 11.02.2023 that the petitioner has driven the said vehicle and also that he was accompanied with A3, which was witnessed by the independent witnesses at the time of seizure. Furthermore, it would also revealed that during analysis of CDR of mobile No. 9676994911 of accused Penke Sathi Raju, it was showed that he was continuously in contact with this petitioner and the mobile No. 79971 16771 is registered in the name of this petitioner. So, he is the person, who knows everything, since he himself opened the box and he had frequent call with other other accused and indulged in illegal transportation of contraband.

8. On considering the aforesaid facts and circumstances of the case and the submissions made by both counsel and also considering gravity of offence committed by the petitioner, 438.400 kgs. of ganja recovered from him, which is a commercial quantity, however, the learned counsel for petitioner submitted that only to curtail his activity, NDPS Act is foisted against him, in which a detailed investigation is required in this case and according to the prosecution, he is the main person and the alleged contraband was transported by concealing the same in the roof top of the



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tempo traveller and he had frequent calls with the other accused and the petitioner's counsel submitted that other accused released on bail by the Apex Court, but the allegation against this petitioner is totally differs from other accused and now the investigation is almost completed and at this stage, if he is released on bail, he may abscond and there is possibility of tampering the witnesses and hampering the investigation and also the fact that there is no change of circumstances, this Court is not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

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