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Crl.O.P.No.26945 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM

THE HON'BLE MR. JUSTICE **P.DHANABAL**

Crl.O.P.No.26945 of 2024

Dhivagar

... Petitioner

Vs.

State represented by,
The Inspector of Police,
PEW Police Station,
Thiruvallur.
(Crime No. 222 of 2024).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail, in Crime No.222 of 2024 on the file
of the respondent Police.

For Petitioner : Mr.T.Magendiran

For Respondent : Mr.S.Balaji
Government Advocate (Crl.Side)

ORDER

The Petitioner, who was arrested and remanded to judicial custody
on 22.08.2024, for the alleged offence punishable under Sections 8(c),



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20(b)(ii)(C), 25 & 29(1) of NDPS Act, in Crime No.222 of 2024, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 11.08.2024 at about 14.00 hours, the Sub-Inspector of Police, on receipt of a secret information about the illegal possession of narcotic substances, went to the scene of occurrence, along with his police team. Wherein, they found that the accused persons were in illegal possession of 55.600 kgs of ganja hidden in a bag. Thereafter, the respondent police arrested the accused person and also recorded confession statement from them, in which, A1 & A2 have transported the contraband from Andhra Pradesh, A5 is a lorry driver, who carried the above said contraband from Orissa to Andhra Pradesh. Based on which, the case in Crime No.222 of 2024 was registered against the accused for the offences punishable under Sections 8(c), 20(b)(ii)(C), 25 & 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985. Hence the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner, who is arrayed as A5 in this case, is an innocent person and he has been falsely implicated in this case. He further submitted that there is no



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recovery from the petitioner, and there is no material on record to connect the petitioner to the crime. He further submitted that the co-accused was also released on bail. He further submitted that the petitioner was arrested and is in judicial custody from 22.08.2024 and is ready to abide by any conditions that may be imposed by this Court. Hence, he prayed bail for the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that there are 6 accused in this case and the petitioner herein is arrayed as A5. He further submitted that when the respondent police received a secret information about the illegal possession of narcotic substances, they went to the scene of occurrence, wherein they found the petitioner along with other accused is in possession of 55.600 kgs of ganja, which is a commercial quantity. He further submitted that the petitioner is a lorry driver, who carried the above said contraband from Orissa to Andhra Pradesh, for which he received Rs.15,000 from A1 through google pay. He further submitted that no contraband was recovered from him. He further submitted that the investigation is still pending. He further submits that the petitioner has no previous case pending against him. Hence, he opposed to grant bail to the petitioner.



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5. Heard both sides and perused the materials available on record including the First Information Report.

6. Considering the representation made by both side counsel, no contraband was recovered from this petitioner, even according to the prosecution case, this petitioner transported the contraband from Orissa to Andhra Pradesh and there is no material except the money transaction between A1 and A5, and considering that the petitioner was arrayed as accused based on the confession statement of co-accused, no previous case pending against him, co-accused was already released on bail, considering the period of incarceration undergone by the petitioner from 22.08.2024 and also considering all others factors, I am inclined to grant bail to the petitioner, subject to certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Thiruvallur, and on further conditions that:-



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[a] the petitioner shall report before the concerned NDPS Court, Thiruvallur on all working days at 10.30 a.m., until further orders.

[b] the Petitioner shall not commit any offences of similar to the offence of which he is accused, or suspected, or of the commission of which he is suspected;

[c] the Petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

[d] the Petitioner shall not abscond either during investigation or trial;

[e] On breach of any of the aforesaid conditions, the learned Judicial 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 in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]; and

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 B.N.S.

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P.DHANABAL, J.

drl

To

- 1.The Judicial Magistrate No.I,
Thiruvallur.
- 2.The Inspector of Police,
PEW Police Station,
Thiruvallur.
- 3.The Superintendent,
Central Prison, Puzhal, Chennai.
- 4.The Public Prosecutor,
High Court of Madras.

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