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Crl.O.P. No.27648 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 27648 of 2024

Hafsal

... Petitioner

Vs.

State rep. by
Inspector of Police,
PEW Anna Nagar Police Station,
Chennai.
Cr.No. 389 of 2024

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, 2023
to enlarge the petitioner on bail in Crime No. 389 of 2024 on the file of the
respondent Police.

For Petitioner	:	Mr.M.G.Martin Manivannan for Mr.C.M.Ramakrishnan
For Respondent	:	Mr.Leonard Arul Joseph Selvam Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition is filed by the petitioner, who was arrested and remanded to judicial custody on 30.08.2024, seeking bail in Crime No.389 of 2024 registered for the offences under Sections 8(c), 20(b)(ii)(c), 29(1) of NDPS Act, 1985.



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2.The case of the prosecution is that on 30.08.2024 at about 14.00 hours, the petitioner and the other accused found in possession of 20.300 kgs of ganja, in which 9.10. kgs was recovered from the petitioner and 11.290 kgs of ganja was recovered from the first accused, the same was seized under the seizure mahazar in the presence of witness. Hence, the case.

3.Learned Counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case and has been in custody from 30.08.2024. He further submitted that only 9.010 kgs of ganja is said to have been recovered from the petitioner, while 11.290 kgs of ganja have been recovered from A1. He further submitted that the petitioner is not aware of the first accused and apart from the alleged confession statement recorded from the petitioner, there is no other material to connect them. He further submitted that the police have combined both the recoveries to portray the total amount of recovery as a commercial quantity. He further submitted that other than the fact that both the accused are from Kerala, there is no relation or connection between them. The learned counsel further submitted that the petitioner is having permanent



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residence at Kerala. Hence, he prayed for grant of bail to the petitioner stating that the petitioner is ready to abide by any stringent conditions that may be imposed by this Court.

4.Learned Government Advocate (Crl. Side) appearing for the respondent police while opposing for grant of bail to the petitioner submitted that the petitioner along with the other accused was found in possession of 20 kgs of ganja. He further submitted that as per the confession statement, the accused persons have purchased the above said contraband from an unknown person at Orissa and selling the same for their personal gain. He further submitted that there is no previous cases pending against the petitioner.

5.Heard the learned Counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) for the respondent Police and perused the materials available on record, including the CD file and the counter affidavit filed by the respondent.

6.It is to be noted that other than the confession statement recorded



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from the accused, there is no other material to show that the petitioner and the other accused traveled together or that they were known to each other. Other than the fact that the accused said to have been found with ganja, at the same place, at the same time and date, there is no material available to show that the accused had continuity of action and commonality of purpose or design, so as to bring their act of possession to constitute, commission of offence in the course of same transaction. Taking into consideration the above said facts and the submissions made by the learned counsel appearing for the parties and taking note of the period of incarceration undergone by the petitioner and the fact that there is no previous cases pending against the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the learned Principal Special Judge, Special Court for EC & NDPS Act, Chennai. Out of the two sureties one should be a blood relative of the petitioner. The release is also subject to the following conditions:



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[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[b] the petitioner shall appear before the respondent police every day at 10.30 am., until further orders;

[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] On breach of any of the aforesaid conditions, the learned 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]*;

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

20.11.2024

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1. The Principal Special Judge,
Special Court for EC & NDPS Act,
Chennai.
2. The Inspector of Police,
PEW Anna Nagar Police Station,
Chennai.
3. The Superintendent,
Central Prison, Puzhal II,
Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.
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