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Crl.O.P.No.28034 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM

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

Crl.O.P.No.28034 of 2024

K.Jahir Hussain

... Petitioner

Vs.

Union Rep. by
The Intelligence Officer,
NCB, Chennai.
(R.R. No. 23 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, pleaded to enlarge the petitioner on bail pending in C.C.No.652 of 2024 on the file of Principal Special Judge, Special Court for EC & NDPS Act, Chennai.

For Petitioner : Mr.M.G.Martin Manivannan

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor
for NCB Cases.

ORDER

The petitioner, who was arrested and remanded to judicial custody



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on 26.07.2023, for the alleged offences under Sections 8(c) r/w Section 20(b)(ii)(C), 27(A), 28 & 29 of the Narcotic Drugs and Psychotropic Substances Act in C.C.No.652 of 2022, pending trial on the file of the Principal Special Judge, Special Court for EC & NDPS Act Cases, Chennai, in connection with R.R.No.23 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 24.07.2023, based on the secret information, the respondent and his team conducted a search near Karanodai Toll Plaza, Chennai, during which, they found that the accused were illegally transporting 432.700 kilograms of Ganja in their Tata Truck bearing registration No.TN-31-BD-6347. The respondent, after completion of investigation, filed a final report and the case has been taken up for trial in C.C.No.652 of 2024 on the file of the Principal Special Court for NDPS Act Cases, Chennai. Hence the case.

3. Learned counsel appearing for the petitioner submitted that this is the second application for bail and the earlier, bail application filed by the petitioner was dismissed by this Court in Crl.O.P.No.5075 of 2024 vide order



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dated 10.07.2024. He further submitted that now, the charge sheet has been filed and the case has also been taken up in C.C.No.652 of 2024 pending on the file of the Principal Special Judge, Special Court for EC & NDPS Act, Chennai. He further submitted that the co-accused were also released on bail by this Court, and that the petitioner is in custody from 26.07.2023, therefore, he prayed for grant of bail to the petitioner.

4. Mr.N.P.Kumar, learned Special Public Prosecutor for NCB Cases appearing for the respondent police opposed for granting bail to the petitioner stating that there are totally 6 accused in this case and the petitioner herein is ranked as A5. He further submits that A1 and A2 were found in illegal possession of 432.700 kgs of ganja in a Tata Truck and thereafter, A6 and this petitioner/A5 arranged Maruti EECO Vehicle bearing registration No.TN 65 AS 6266 from Rameshwaram to Vishakhapatnam for narcotics trafficking and they were intercepted and arrested on 25.07.2023, that thereafter, based on their confession statement of the co-accused, this petitioner was summoned by the respondent police and he was also appeared before the investigation officer on 27.07.2023 and during the enquiry, this petitioner admitted his guilt in procuring, possession, attempt to transport,



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financing and entering into criminal conspiracy for the illicit trafficking of seized contraband in this case. He further submitted that the quantity of contraband involved in this case is a commercial quantity. He further submitted that a sum of Rs.50,000/- was transferred to the petitioner's account with the instruction of A6, for the arrangement and procurement of ganja.

4.1. He further submitted that during investigation, FASTag travel payment details of both the vehicles had been used by this petitioner along with A6, corroborates the admissions of this petitioner. He further submitted that Fastag accounts for the vehicles were registered by the accounts in IDFC Bank and ICICI Bank, and that bank account shows that the Fastag for vehicle TN 65 AS 6266 is registered in the name of this petitioner, shows that all the accused travelled from Rameshwaram to Andhra Pradesh for arrangement and procurement of ganja. He further submitted that this petitioner acted as the main procurer of the seized ganja, and he was involved as organizer and associate along with other accused persons.

4.2. He further submitted that the collective involvement of all the



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accused is proved and corroborated by various aspects like financial transactions, common phone calls, admissions of peripheral, unknowing members, flight manifest, vehicle journey records. He also submitted that the case has been taken up on the file of the Principal Special Judge, Special Court for EC & NDPS Act, Chennai. He further submitted that the petitioner has no previous case pending against him. However, he prayed for dismissal of the petition.

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, considering the fact that the contraband involved in this case was seized only from A1 and A2 and no contraband was recovered from this petitioner, based on the confession statement of the co-accused, this petitioner was arrayed as an accused, co-accused were already released on bail, no previous case pending against the petitioner, that this petitioner has already appeared before the respondent police on summons for enquiry, investigation was completed and the charge sheet was also filed, and considering the period of



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incarceration undergone by the petitioner, the objections raised by the Special Public Prosecutor are to be tested at the time of trial, 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 Principal Special Judge, Special Court for Exclusive Trial of Cases under NDPS Act, Chennai, and on further conditions that:-

[a] the petitioner shall report before the concerned NDPS Court, Chennai, 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



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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.

04.12.2024

drl

To

- 1.The Principal Special Judge,
Special Court for Exclusive Trial of Cases
under NDPS Act, Chennai.
- 2.The Intelligence Officer,
NCB, Chennai.
- 3.The Superintendent,
Central Prison, Puzhal, Chennai
- 4.The Public Prosecutor,
High Court, Madras.



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P.DHANABAL, J.

drl

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