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Crl.O.P.No.28004 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

CORAM

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

Crl.O.P.No.28004 of 2024

Muhammed Afsal Habeeb

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Ambattur PEW Police Station,
Tiruvallur District.
(Crime No.535 of 2024).

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS Act, pleaded to enlarge the petitioner on bail, in connection with the Crime No.535 of 2024, pending investigation on the file of the respondent Police.

For Petitioner : Mr.S.Sathish Kumar

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

ORDER

This Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 10.10.2024, seeking bail in Crime No.535 of 2024 registered for the offence under Sections 8(c), 20(b)(ii)(B) of NDPS Act, 1985.



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2. The case of the prosecution is that based on the secret information, the respondent and his team conducted a search, during which, they found that the accused were found in illegal possession of 6 kilograms of Ganja. Hence the case.

3. Learned counsel appearing for the petitioner submitted that the contraband seized from the petitioner is an intermediate quantity. He would further submit that, petitioner has got permanent residence in Kerala. He further submitted that the petitioner is in custody from 10.10.2024 and he is also ready to abide by any stringent conditions that may be imposed by this Court. Hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the accused were found to be in illegal possession of 6 kilograms of Ganja. He further submitted that petitioner hails from other State and if he released of bail, there is a possibility of abscondance and thus he opposed for grant of bail to the petitioner.



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5. At this juncture, the learned counsel for the petitioner submitted that the petitioner, without prejudice to his defense and contention, is ready and willing to deposit an amount of Rs.10,000/- as non-refundable deposit to any welfare scheme of the Government or any other organization. Hence, he prayed for grant of bail to the petitioner.

6. 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.

7. On considering the voluntary submission made by the learned counsel for the petitioner, the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten thousand only) as non refundable deposit to "District Legal Services Authority, Tiruvallur", without prejudice to his rights and contentions before the trial Court.

8. Merely because the petitioner deposits the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.



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9. Taking into consideration the above facts and circumstances of the case, the submissions made by the learned counsel on either side and also considering the period of incarceration undergone by the petitioner from 10.10.2024, this Court is inclined to grant bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is ordered to be released on bail on condition to make a non-refundable deposit of **Rs.10,000/- (Rupees Ten Thousand only)** to the credit of "**District Legal Services Authority, Tiruvallur**", without prejudice to his rights and contentions before the trial Court and on such deposit and production of proof, 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 **Judicial Magistrate at Ambattur**, and on further conditions that:

[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;



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[b] the petitioner shall report before the respondent Police, everyday at 10.30 a.m., and 06.30.p.m., 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 absconds, a fresh FIR can be registered under Section 269 B.N.S.

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To

1. The Judicial Magistrate,
Ambattur.
2. The Inspector of Police,
Ambattur PEW Police Station,
Tiruvallur District.
3. The Superintendent,
Central Prison,
Puzhal
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.
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