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CRL O.P. No.29139 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.12.2024

CORAM

The Hon'ble Mr. Justice P.DHANABAL

CRL OP.No.29139 of 2024

Nisardeen S/o. Seyed Hasan

... Petitioner / Accused-7

Vs

State rep. by:-

The Intelligence Officer,
NCB, Chennai Zone Unit,
Chennai.

... Respondent

[R.R. No.37 of 2024]

PRAYER: - The Criminal Original Petition is filed under Section 483 of B.N.S.S., praying to grant bail to the petitioner/Accused in R.R. No.37 of 2024 on the file of the respondent police.

For Petitioner : Mr. G. Karruppasamy Pandian
for J. Jahith Rifai

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

ORDER

The petitioner / Accused-7, who was arrested and remanded to judicial custody on 18.07.2024 for the offences punishable under



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Sections 8(c), 22(c), 27(A), 28 and 29 of NDPS Act, 1985 in R.R. No.37 of 2024 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the accused were found with possession of 1.470 kgs of white colour crystal substance, which is believed to be Methamphetamine. Hence the case.

3. The learned counsel for the petitioner would contend that the respondent police have registered a false case against the petitioner for the offences punishable under Sections 8(c), 22(c), 27(A), 28 and 29 of NDPS Act, 1985 and he was arrested and remanded to judicial custody on 18.07.2024. According to the prosecution, all the accused along with the petitioner, had indulged in the illegal transportation of the contraband. Infact, the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. All the accused were arrested in this case and the contraband involved in this case was recovered from the accused A1 and A2 only. There is no evidence except the confession statement of co-accused as against this petitioner. Investigation was almost completed. The earlier bail applications were dismissed.



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Therefore prayed to grant bail to the petitioner.

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3.1. The learned counsel appearing for the petitioner has relied on judgments in *(i) State (By NCB) Bengaluru vs. Pallulabid Ahmad Arimutta and another reported in (2022) 12 Supreme Court Cases 633; (ii) State of West Bengal vs. Rakesh Singh @ Rakesh Kumar Singh reported in 2022 LiveLaw (SC) 580 and (iii) Allah Pitchai vs. State in Crl. O.P. No.16517 of 2024.*

4. The learned Special Public Prosecutor would submit that the accused were found with possession of 1.470 kgs of white colour crystal substance, which is believed to be Methamphetamine. This petitioner is A7. In pursuance of further investigation, a look out circular was opened for the petitioner / A7 and subsequently, he was intercepted by the immigration authorities at Kochi International Airport on 16.07.2024, when he was to travel from Kochi to Dubai. Enquiry was conducted and the petitioner was arrested on 18.07.2024. Case is under investigation and investigation is not yet completed. The seized contraband is a



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commercial quantity. Hence, he strongly opposed to grant bail to the petitioner.

4(i) Further the learned Special Public Prosecutor appearing for the respondent police would submit that if the Court is inclined to grant bail to the petitioner, his passport may be surrendered before the trial Court, if it is not already surrendered. The learned counsel appearing for the petitioner, in reply, submitted that already the passport of the petitioner was surrendered before the respondent police.

5. Heard both sides and perused the materials available on record.

6. Considering the rival submissions made on either side, considering the fact that the petitioner is arrayed as an accused in this case based on the confession statement of the co-accused, even according to the prosecution, A1 and A2 were arrested and based on their confession statements, A4 and A5 were arrested along with money and as per the confession statement of A5 that only this petitioner had supplied



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money to the drugs trafficking and he is the owner of the shop and also considering the fact that except the above said confession statement, no other materials available as on date and after one month from the date of arrest of A1 and A2, this petitioner was arrayed as an accused in this case and no contraband was recovered from this petitioner and there is no previous case pending against this petitioner, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

[a] Accordingly, the petitioner is ordered to be released on bail on condition to execute 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, Ambattur** and on further conditions that:

[b] the petitioner shall report before the respondent police daily at 10.00 a.m. until further orders;

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

[d] the petitioner shall not abscond either during investigation or



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trial;

[e] 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 or tamper with the evidence;

[f] 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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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index: Yes/No

Internet: Yes/No

Speaking/Non Speaking order

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To

- 1.The Judicial Magistrate, Ambattur
- 2.The Public Prosecutor, Madras High Court, Chennai.
3. The Intelligence Officer, NCB, Chennai Zone Unit, Chennai.
4. The Superintendent of Police, Central Prison, Puzhal, Chennai.

P.DHANABAL,J

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