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Crl.O.P.No. 28973 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2024

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.No. 28973 of 2024

Maran

... Petitioner/
Accused No.2

Vs.

State Rep. by
The Inspector of Police
T-12, Poonamalee Police Station
Poonamallee, Chennai – 600 123.
(Crime No. 638 of 2023)

... Respondent/Complainant

PRAYER: Criminal Original Petitions filed under Section 483 of BNSS, pleaded to enlarge the petitioner/accused No.2 on bail in C.C.No. 250 of 2024 on the file of T-12, Poonamalee Police Station.

For Petitioner : Mr. S.Venkatathiri

For Respondent : Mr.R.Vinoth Raja
Government Advocate (Crl.Side)



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ORDER

The petitioner/A2 who was arrested and remanded to judicial custody on 11.10.2023, in Crime No.638 of 2023 registered by the respondent Police for the offences under Sections 8(c) read with 20(b)(ii)(C), 22(c), 29(1), 25 of NDPS Act, seeks bail.

2. It is the case of the prosecution that this petitioner/A-2 and A-1 were intercepted while they were travelling in a motorcycle bearing Registration No. TN-13-Y-1303. A-3 and A-4 were travelling in another motorcycle bearing Registration No. TN-12-AQ-7518. When the petitioner and A-1 were searched and questioned, A-1 had produced the contraband of 124 strips of Nitrovet 30 tablets, which is commercial quantity.

3. The learned counsel for the petitioner pointed out that the entire contraband was seized only from A-1. This was reflected in the seizure mahazar and also in Form 91. Further, in the statement of the Investigating Officer, it had been stated that the contraband had been seized only from A1.



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4. On the other hand, the learned Government Advocate (Crl.Side) argued that this petitioner was found travelling in the same motorcycle along with A-1 and therefore, it must be deemed that he was in conscious possession of the contraband.

5. The learned counsel for the petitioner however pointed out that the occupants of the other motorcycle, A-3 and A-4 had been granted bail since the Court had come to a conclusion that the contraband had been seized only from A-1 and not from them. It is contended that the same reasoning should be applied to the petitioner also from whom the contraband was not seized but was seized only from A-1.

6. It is also contended that the petitioner is a young person of 19 years and that there are no previous cases relating to NDPS offence against him.

7. It is contended on the side of the respondent that however, there



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are previous cases under IPC offences against the petitioner.

8. This Court had granted bail to A-4 in Crl.O.P.No. 8644 of 2024 by an order dated 29.04.2024 on the ground that the contraband had been seized only from A-1 and not from A-4. At that time, the application seeking bail of this petitioner was dismissed. But now, the final report had been filed and taken cognizance and is now pending trial in C.C.No. 250 of 2024 before the II Additional Special Court under EC and NDPS Act cases.

9. Taking all the factors into consideration, particularly that the investigation has been completed and the trial process is to commence and also that the contraband had been seized only from A-1 and also taking into consideration the period of incarceration since this petitioner is in custody from 11.10.2023 for more than one year and also the age of this petitioner and also the fact that there are no previous cases against this petitioner under NDPS Act, 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



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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 II Additional Special Court, Chennai, under EC & NDPS Act, 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.

[b] the petitioner shall report before the trial Court, everyday at 10.30 a.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



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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].

C.V.KARTHIKEYAN, J.

vsg

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

19.12.2024

vsg

Index:Yes/No

Neutral Citation:Yes/No

Speaking order : Yes/No

To

1. The Inspector of Police
T-12, Poonamalee Police Station
Poonamallee, Chennai – 600 123.

2. The Central Prison, Puzhal, Chennai.

3. The Public Prosecutor,
High Court of Madras.

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