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Crl.O.P.No.29626 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.29626 of 2024

Suryaprakash

... Petitioner

Vs.

State Represented by,
The Inspector of Police,
R-2, Kodambakkam Police Station,
Chennai District.
Crime No.44 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.576 of 2023 pending on the file of Principal Special Court under EC & NDPS Act, Chennai.

For Petitioner : Mr.A.Samson

For Respondent : Mr.S.Balaji,
Government Advocate (Crl.Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody



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on 04.03.2023, for the alleged offences under Sections 8(c), 20(b)(ii)(c), 25, 29(1) of the Narcotic Drugs and Psychotropic Substances Act in C.C.No.576 of 2023, pending on the file of the Principal Special Court under EC & NDPS Act Cases, Chennai, in connection with Crime No.44 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 04.03.2023, at about 8.30 hours, when the respondent police received secret information about the illegal transport of Narcotic substance, they found the petitioner along with other accused is in possession of 21.700 kgs of ganja and the same was seized by the respondent police. Hence, the complaint.

3. Learned counsel appearing for the petitioner submitted that this is the fourth bail application filed by the petitioner. He further submits that the petitioner is an innocent person and he has been falsely implicated in this case. He has not committed any offence as alleged in the FIR. He further submitted that the similarly placed co-accused in this case have been granted bail by this Court. He further submitted that even as per the prosecution that there was only joint possession of contraband and no contraband was



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recovered from this petitioner. He further submitted that the respondent has not followed the procedure as contemplated under NDPS Act, thereby the petitioner is entitled for grant of bail. He further submits that the petitioner was arrested and is in judicial custody from 04.03.2023 and is ready to abide by any conditions that may be imposed by this Court. Hence, he prayed bail for the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police opposed for granting bail to the petitioner stating that there are totally 7 accused in this case and the petitioner herein is ranked as A2. He further submits that when the respondent police received secret information about the illegal transport of Narcotic substance, they found the petitioner along with other accused is in possession of 21.700 kgs of ganja, which is a commercial quantity. He further submits that during the course of investigation, based on the confession statements of the accused persons/A1 & A3, it was revealed that the accused persons/A4 and A5 had purchased the above said contrabands from Thuni at Andhra Pradesh and the same was bought by A6 and A7 and given to the accused persons A1 & A3 at A3's house. He further submitted that the petitioner has no previous case pending



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against him. He also submitted that final report has been filed and the case has been taken up on the file in C.C.No.576 of 2023 on the file of the Principal Special Court under EC & NDPS Act, Chennai.

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 no contraband was recovered from this petitioner, even as per the prosecution, the contraband was found in the house of A3 and this petitioner is no way connected with the place where the alleged contraband was recovered, and even as per the prosecution, that the alleged contraband was jointly recovered from all the petitioners and no specific averments as to from whom particularly the contraband was recovered, no previous case pending against him, co-accused was already released on bail, investigation was completed and the charge sheet was also filed, and considering the period of incarceration undergone by the petitioner, and also considering all others factors, I am inclined to grant bail to the petitioner, subject to certain conditions.



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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 Court under EC & 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 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



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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 Court
under EC & NDPS Act, Chennai.
- 2.The Inspector of Police,
R-2, Kodambakkam Police Station,
Chennai District.
- 3.The Superintendent,
Central Prison, Puzhal-II, Chennai
- 4.The Public Prosecutor,
High Court, Madras.

P.DHANABAL, J.

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