



Crl.O.P.No.27885 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.02.2024

PRONOUNCED ON : 13.02.2024

CORAM

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

Crl.O.P.No.27885 of 2023

Joshva @ Jack @ Ashok

... Petitioner

Vs.

State represented by
The Inspector of Police,
PEW, Gummidipoondi Police Station,
Tiruvallur District.

... Respondent

PRAYER: These Criminal Original Petitions filed under Section 439 of Cr.P.C., prayed to enlarge the petitioner on bail in Crime No.264 of 2023 on the file of the respondent.

For Petitioner : Mr.T.T.Ravichandran,
For Mr.R.Muthukumar

For Respondent : Mr.L.Baskaran
Government Advocate (Crl. Side)



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ORDER

The petitioner/A7, who was arrested and remanded to judicial custody on 22.08.2023 for the offences punishable under Sections 8(c), 20(b)(ii)(C) and 29(1) of NDPS Act in Crime No.264 of 2023, seeks bail.

2.It must also be pointed out that this petitioner had categorized as A1 in the final report filed before the Special Court For EC and NDPS Act Cases, Chennai.

3.It is the case of the prosecution that on 18.06.2023, on receiving information, the respondent had gone to the scene of occurrence and arrested six accused persons and recovered 6 Kgs of Ganja from each of them, totally measuring 36 Kgs. Subsequently, on the basis of their confession statement, the petitioner herein had been implicated.

4.The case of the prosecution against the petitioner is that he had transferred cash of Rs.1,00,000/- to A1 (as categorized in the FIR). It is also stated that call record details reveal that the petitioner has been in active contact with the named accused persons to purchase contraband from A8 at



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Tuni in Andhra Pradesh and sell the same in the local area and earn money.

5.It is stated that A8 is still absconding. It is significant to point out that it is this petitioner who knows the whereabouts of A8 who is the prime supplier of the drugs. It is also stated that A2, A3, A4 and A6 (as categorized in the FIR) had been detained under Tamil Nadu Act 14 of 1982.

6.The learned counsel for the petitioner stated that a confession had been recorded and stated that a confession being a thin piece of evidence cannot be relied on. It is also stated that though bank statements had been said to be recovered from the petitioner, no details have been given. The learned counsel stated that there was no recovery of any contraband from this petitioner.

7.The learned Government Advocate (Criminal Side) for the respondent stated that cash had been given by the petitioner amounting to Rs.1,00,000/- to A1 (as categorized in the FIR). It is also contented that one of the accused, who had also been secured on 18.06.2023 is a juvenile.

8.The learned counsel for the petitioner further stated that all these



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aspects can be examined only during the course of trial and asserted that the evidence presented would only indicate acquittal of the petitioner herein.

9. One significant factor to be considered is about the quantity of Ganja seized, which is commercial in nature.

10. It is also to be noted that according to the prosecution, there had been contact over phone between the petitioner and the other accused who had been arrested. There is also allegation of transfer of cash by the petitioner herein. One accused is still absconding. Investigation can never be completed without finding the source of supply of Ganja.

11. This Court had called for the case diary and perused the same.

12. A careful perusal of the records show that A1 (as categorized in the FIR) had given a confession and had stated that it was this petitioner who had given him a sum of Rs.1,00,000/- in cash and thereafter, in the company of the other accused, he had gone to Tuni in Andhra Pradesh and from there called this petitioner from the railway station. This petitioner stated that a



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person by name Srinu along with other men would come to the station and would hand over six black bags containing Ganja. It was further stated in the confession that he handed over the sum of Rs.1,00,000/- given by this petitioner to the said Srinu and brought the Ganja bags. The accused / A1 to A6 (as categorized in the FIR) were then intercepted and arrested.

13.Even though a statement under Section 67 of NDPS Act will have to be viewed with skewed eyes and admissibility is questionable, still, in the instant case, the said statement, points out to the role of this accused and the absconding accused. The quantity seized is commercial in nature. All the other accused who have been secured are still in custody.

14.The earlier petition seeking bail in Crl.O.P.No.24713 of 2023 had been dismissed on 03.11.2023. Except for filing final report, there has been no change in circumstances particularly with respect to identifying the absconding accused.

15.Taking into consideration the seriousness of the offence and the



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fact that the seized contraband is commercial in nature and that the primary stipulation under Section 37 of NDPS Act namely, that there are reasonable grounds for acquittal had not been satisfied, I am not inclined to grant bail. Accordingly, this Criminal Original Petition stands dismissed.

13.02.2024

smv

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No

To

- 1.The Inspector of Police,
PEW, Gummidipoondi Police Station,
Tiruvallur District.
2. The Public Prosecutor,
High Court of Madras.

C.V.KARTHIKEYAN, J.



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