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CRL O.P. No.31307 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.12.2024

CORAM

The Hon'ble Mr. Justice P.DHANABAL

CRL OP.No.31307 of 2024

Senthil @ Kanagalingam S/o. Periya Nadar ... Petitioner / Accused

Vs

State rep. by:-

The Inspector of Police,
T-16 Nazerathpet Police Station,
Chennai.
[Cr. No.304 of 2024]

... Respondent

PRAYER: - The Criminal Original Petition is filed under Section 483 of B.N.S.S., praying to grant bail to the petitioner/Accused in Cr. No.304 of 2024 on the file of the respondent police.

For Petitioner : Mr. M. Vimal B. Crimson

For Respondent : Mr. S. Balaji,
Government Advocate (Criminal side)

ORDER

The petitioner / Accused, who was arrested and remanded to judicial custody in this case under P.T. warrant on 18.07.2024 for the

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offence punishable under Section 24(1) of COTP Act and Section 123 of B.N.S. in Cr. No.304 of 2024 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 18.07.2024 at about 7.30 hours, based on the secret information about the illegal sale of contraband, the police team went to the scene of occurrence at Nazarathpet Check Post, BH Road and conducted vehicle check up and the found the accused A1 to A3 in a Mahindra Bolero Truck bearing registration No.TN74 AR 4465 with illegal possession of 1503 kgs of Hans (Tobacco product), 198 kgs of Hans in Bolero Maxi Truck bearing Registration No.TN74 AR 4465, 1205 kgs of Hans in Tata 407 vehicle bearing Registration No.TN12 D 2378, 100 kgs of Hans in Ashok Leyland vehicle bearing Registration No.TN85 S 1360 and 62 kgs of Hans in Volkswagen Polo vehicle bearing Registration No.TN01 AW 2017. 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



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the offences punishable under SSection 24(1) of COTP Act and Section 123 of B.N.S. In fact, the petitioner was arrested and remanded to judicial custody in an another case in Cr. No.665 of 2024 on 14.09.2024. Based on the confession statement of the co-accused, he was falsely implicated as an accused in this case. He is an innocent and nothing to do with the alleged offences. He is in judicial custody from 18.07.2024. Therefore prayed to grant bail to the petitioner.

4. The learned Government Advocate (Criminal side) would submit that the accused A1 to A3 were arrested by the respondent police for the illegal possession of banned products, which are commercial quantity and further, during the investigation, this petitioner/A4 was arrested and remanded to judicial custody under P.T. warrant and this petitioner was taken under police custody and 62 kgs of Hans were recovered from this petitioner. Samples were sent for the lab analysis and the report is yet to be received. There are 8 previous cases pending against the petitioner. Hence, he strongly opposed to grant bail to the petitioner.



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

6. Considering the rival submissions made on either side, considering the nature of offences, considering the fact that the petitioner is in judicial custody from 18.07.2024, moreover, the petitioner was implicated in this case based on the confession statement of the co-accused, though the petitioner is also involved in 8 other previous cases, he was released on bail in all the cases, the order of detention under the Act 14 of 1982 was also quashed and considering the period of incarceration of the petitioner from 18.07.2024, 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 No.I, Poonamallee** and on further conditions that:

[b] the petitioner shall report before the respondent police i.e., Nazerathpet Police Station daily at 10.00 a.m. for a period of 30 days



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and thereafter as and when required for interrogation;

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[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 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 No.I, Poonamallee.
- 2.The Public Prosecutor, Madras High Court, Chennai.
3. The Inspector of Police, T-16 Nazerathpet Police Station, Chennai.
4. The Superintendent of Police, Central Prison, Puzhal-II, Chennai.

P.DHANABAL,J

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