



CRL OP(MD) No.4327 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Twenty Second day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.4327 of 2024

BABU

... PETITIONER / ACCUSED No.3

Vs

THE INSPECTOR OF POLICE
TOWN WEST POLICE STATION,
THANJAVUR DISTRICT.
CRIME NO.294 OF 2023.

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.S.SURESH Advocate

For Respondent : Mr.B.NAMBISELVAN, Additional Public Prosecutor

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

PRAYER:

To enlarge the petitioner on bail in Crime no.294 of 2023 on the file of the Respondent Police in connection with C.C.No.166 of 2023 on the file of Additional District Judge /Presiding Officer Special Court under Essential Commodities Act, Thanjavur.



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ORDER : The Court Made the following order :-

The petitioner/A3 who was arrested and remanded to judicial custody on 10.07.2023 for the offences punishable under Sections 8(c) r/w.20(b)(ii)(c), 25 and 29 (2)(a) of NDPS Act in Crime No.294 of 2023 on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that on 06.03.2023 at about 11.00 a.m., the respondent Police on secret information intercepted a lorry bearing Registration No.TN 76 AB 5563, they found seven gunny bags of ganja weighing about 280kgs. It is further alleged that the they have transported the same from Andhra for the purpose of selling it in Tamil Nadu. Hence, the case came to be registered.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and a false case has been foisted against him. He would further submit that on the basis of the confession statement of the co-accused, this petitioner has been implicated as an accused and there is no recovery from the petitioner. Further, the co-accused was enlarged on bail by this Court in CrI.O.P(MD) No.16800 of 2023, vide order dated 19.09.2023. An earlier bail application filed by the petitioner was



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dismissed as withdrawn vide order dated 04.01.2024. He would further submit that

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the petitioner is in judicial custody from 10.07.2023, hence he may be granted bail.

4. The learned Additional Public Prosecutor would submit that the quantity of Ganja recovered in this case is a commercial quantity and one previous case is pending against the petitioner. Though the A8 granted bail, that ground may not be applicable to the petitioner, since he is arrayed as A3. However he fairly concedes that the investigation has been completed and final report has been filed before the Special Court of NDPS Act cases, Madurai, and the same was also taken on file in C.C. No.166 of 2023. Further the petitioner has not satisfied the twin conditions as required under Section 37 of the NDPS Act. Hence, he strongly opposed to grant bail to the petitioner.

5. Heard the learned counsel on either side and perused the material records of the case.

6. Considering the facts that the quantity of contraband involved in this case is a commercial quantity and the petitioner is having one previous case and also considering the fact that the petitioner has not satisfied the twin conditions as



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required under Section 37 of the NDPS Act, this Court is not inclined to grant bail to the petitioner. However, after the seizure procedure is over, the concerned Magistrate and the respondent Police are directed to comply with the guidelines enumerated under section 52(A) of NDPS Act and as per the guidelines issued by the Hon'ble Supreme Court of India in the case of Union of India Vs. Mohanlal and Another ((2016) 3 SCC 379).

7. Accordingly, this Criminal Original Petition is dismissed.

sd/-

22/03/2024

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/04/2024

Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

INDU

TO

- 1 THE ADDITIONAL DISTRICT JUDGE /
PRESIDING OFFICER SPECIAL COURT
UNDER ESSENTIAL COMMODITIES ACT, THANJAVUR
- 2 THE INSPECTOR OF POLICE
TOWN WEST POLICE STATION, THANJAVUR DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.



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4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.4327 of 2024
Date :22/03/2024

SS/VR/SAR- /16/04/2024/5P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023