



CRL OP(MD)No.16222 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30.10.2024

PRESENT

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

CRL OP(MD)No.16222 of 2024

Shanmugavel

... Petitioner/3rd Accused

Vs

The Inspector of Police,
NIB - CID Trichy Unit,
Trichy.
(Crime No.4 of 2024.)

... Respondent/Complainant

For Petitioner : Mr.G.Prabhakaran, Advocate.

For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :-

For Bail in Crime No.4 of 2024 on the file of the respondent police



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ORDER: The Court made the following order :-

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The petitioner/Sole Accused, who is arrested and remanded to judicial custody on 14.02.2024 for the offence punishable under Sections 8(c) r/w. 20(b)(ii)(c), 25 and 29(i) of NDPS Act in Crime No.4 of 2024 on the file of the respondent police, seek bail.

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

3.The allegations in this case are serious in nature. As per the version of the prosecution, the police party got secret information that in two vehicles, namely, Yamaha Bike and Lorry, ganja is being transported from Andhra Pradesh. Accordingly, they waited near Irungalur check posts, for the vehicles to arrive and upon seeing the police party, two persons, who came in the Yamaha bike and the two persons being the driver and the other person in the lorry, stopped the vehicles and tried to run away from the scene. The police party nabbed all the four of them and recovered 140kgs of ganja from them. All the four accused were arrested. As per the prosecution, it can be seen that the petitioner herein and one Pranesh were travelling in the Yamaha motorbike, and one Madhan Kumar and one Suresh were travelling in the lorry. It seems that both the petitioner herein as well as the said Pranesh have given confession statement. It is their consistent version that this



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petitioner was staying in Vellore, under the custody of one Sugandharaj. While he was so staying, the said pranesh became a friend of him through Instagram. On a particular day, the said Sugandharaj brought the said Pranesh to the petitioner herein and instructed the petitioner to go to Andhra Pradesh and fetch the ganja.

4.It is also the further case of the prosecution that the said Sugandharaj handed over the cell phone bearing No.8807591695, which is a lava model button phone and it seems to have stated that upon taking that phone and making a call to a particular person that ganja will be delivered. Accordingly, the said cell phone number shows the location in the particular place at Andhra Pradesh, from where the contraband was handed over and was being brought in. The CDR particulars shows the location of the cell phone traveling up to Andhra Pradesh and it has traveled back. On the strength of the said allegations, now the charge sheet is also filed.

5.The learned Counsel appearing on behalf of the petitioner would submit that it is not from the petitioner's vehicle the ganja was recovered. There is a small time lag between the seizure of the two-wheeler as well as the seizure of the contraband from the lorry. In order to claim that the petitioner herein was only the pilot, absolutely there is no connecting material between the petitioner herein and the other two accused, who are travelling in the lorry with reference to the contraband.

Under these circumstances, in view of the submissions made by the learned



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Counsel, this Court had adjourned the matter on several occasions. Opportunity was given to the prosecution even to come up with additional material, if any, in the course of the hearing also.

6.The learned Additional Public Prosecutor would submit that he has written repeated letters to the Investigating Officer. The Investigating Officer also did not personally turn up to the Court, instead sending only representatives.

7.Upon perusal of the records, the following disturbing features are revealed in this case;

(i)even though the prosecution is said to obtain the confession from the accused, from which the case of the prosecution seems to be that the said Sugandharaj only arranged the ganja, neither any case to the contrary has been unearthed in the investigation nor the said Sungadharaj seems to have been investigated. As per the confession statements, it is only the said Sugandharaj, who is the common person, who arranged the said Pranesh and the petitioner herein, to go to Andhra Pradesh for fetching the ganja. The said fact seems to have been totally not investigated.

(ii)Even though the cell phone was recovered at the time, it is mentioned in the observation magazar “பயனற்ற cell phone”. Even if the cell phone is useless, still it would have been sent to the RFSL and the IMEI number could have been traced,



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through which the SIM number could have been traced and the call details everything could have been taken.

(iii) Even the CDR particulars which is traced out in respect of the other cell phone does not form part of the final report and is kept in the file.

(iv) It is also stated that they have unearthed the Bank statement of deposit of money with reference to the first accused and another card for paying money for filling diesel was also gathered; but were not made as the part of the final report.

8. The investigation in this case is seriously lacking and is shocking. The prosecution is supposed to file a final report by coming up with a final version. They have to come up with a version as to who arranged for the ganja, from where it is procured and where it is destined. Absolutely except for the seizure, no investigation whatsoever seems to have been conducted and the charge sheet has been filed.

9. When this Court enquired about the same, the learned Additional Public Prosecutor submitted that the matter will be placed before the higher authorities and further investigation would be undertaken to collect the materials. In any event, it can be seen that a huge quantity of 140kgs of ganja has been recovered from the lorry which is being driven by a A-2, and A-4 was coming along with A-2 in the lorry. If the petitioner herein and the said Pranesh are the one who have engaged



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them, then certainly they can also be included as an accused. But however, the prosecution has to conduct an investigation in the proper sense of the term and bring all the materials and file the final report. The copy of this order be placed before the Director General of Police for closer scrutiny. If necessary, the Director General of Police shall also consider entrusting the matter to any other appropriate officer to conduct further investigation. The law now it is settled that it will be open for the prosecution to carry out further investigation and they can always file the supplementary report by gathering materials and by properly imputing role played by each accused and to collect such materials for the role played by them. The Court permission shall also be obtained by filing an appropriate application before the trial Court for sending the 'cell phone', which is now said to be lying in Malkana and the further investigation shall be carried on and completed as soon as possible and supplementary final report can be filed.

10. For all the above reasons, considering the fact that the petitioner is in judicial custody from 14.02.2024 and the statutory period of investigation of 180 days is already over and now only further materials are sought to be collected, for the present, I am inclined to enlarge petitioner on bail by holding that the petitioner has made out a case to come out of the rigor of Section 37 of NDPS Act.

11. Accordingly, this Criminal Original Petition is allowed and the petitioner is



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ordered to be released on bail, on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the Additional District Judge for EC and NDPS Act Cases, Pudukottai;

(i)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(ii)the petitioner shall appear before the trial Court on every hearing without fail;

(ii)the petitioner except the date of hearing, shall report before the respondent police daily at 10.30 a.m., for a period of three weeks and thereafter as and when required for interrogation and keep the Investigation Officer informed about his whereabouts. It is made clear that no relaxation of the condition for the said period will be entertained by this court;

(iii)the petitioner shall not tamper with evidence or witness;

(iv)the petitioner shall not abscond during trial.

(v)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 bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court



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in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

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(vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
30/10/2024

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30/10/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

JBR

To

1.The Additional District Judge
for EC and NDPS Act Cases,
Pudukottai.

2.The Inspector of Police,
NIB-CID Trichy Unit,
Trichy.

3.The Superintendent,
Central Prison, Trichy.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.G.PRABHAKARAN, Advocate (SR-13496[I] dated 30/10/2024)



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ORDER

IN

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ED/ /SAR- (30/10/2024) 9P / 6 C

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