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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/10/2024

PRESENT

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

CRL OP(MD). No.16206 of 2024

Arivalagan,

... Petitioner/ Accused No.5

Vs

The State of Tamil Nadu,
The Inspector of Police,
Keezhaiyur Police Station,
Nagapattinam District.
(Crime No.143 of 2024).

... Respondent/Complainant

For Petitioner : S.Poornachandran,
Advocate.

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

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :-

For bail in Crime No.143 of 2024 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A5, who was arrested and remanded to judicial custody on 19.07.2024 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C), 25 and 29



(1) of Narcotic Drug and Psychotropic Substances Act, 1985, in Crime No.143 of 2024 on the file of the respondent police, seeks bail.

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2.The case of the prosecution is that the petitioner and the other accused were found in illegal possession of 200 kgs of Ganja. Hence, the complaint.

3.Heard both sides.

4.The learned counsel for the petitioner would submit that even *prima facie* to continue the petitioner under custody, there are no materials so far projected by the respondent prosecution. The petitioner is languishing in prison from 19.07.2024. Only on political rivalry was the petitioner arrested. Merely because the petitioner spoke to his relative, who is working abroad, that by itself cannot be a ground for arresting the petitioner. Especially when the petitioner is a Vice Chairman of the Panchayat Union, out of political vendetta, this case is being foisted against the petitioner. When the recovery is not made from the petitioner, the prosecution is unable to come up with any concrete materials as against the petitioner continuing the incarceration of the petitioner would not be correct. Therefore, the petitioner has *prima facie* made out a case to come out of the rigors of Section 37 of the NDPS Act, and therefore, the petitioner would be enlarged on bail.

5. He would further submit that the entire six police personnel of the Special Team were suspended. They were suspended on specific charge that they indulged in screening the actual offenders, and after taking bribes they sought to implicate.

<https://www.mhc.tn.gov.in/judis>



When that is the case of the respondent department themselves, this is a case, where the Court should enlarge the petitioner on bail.

6. In support of his submissions, he would rely upon the judgment of a Hon'ble Supreme Court of India in **Balwinder Singh (Binda) Vs. The Narcotics Control Bureau** reported in **2023 LiveLaw (SC) 813** to contend that the material so far placed is only the CDR report, which has to be considered along with Section 67 of the NDPS Act.

7. To contend that the CDR report alone cannot be a material to point out towards the guilt of the petitioner, the learned counsel would rely upon the another judgment of the Hon'ble Supreme Court of India in **State (By NCB) Bengaluru Vs. Pallulabid Ahmad Arimutta and Another etc.**, reported in **(2022) 12 SCC 633**.

8. The learned counsel would also rely upon the another judgment of the Hon'ble Supreme Court of India in **Ravi Prakash Vs. The State of Odisha** reported in **2023 LiveLaw (SC) 533** to contend that an identical circumstances, the accused was enlarged on bail.

9. I have considered the said submissions made by the learned counsel for the petitioner.

10. This is a case where the contraband, being 200 kilograms of ganja, was recovered from the other accused. Initially, upon their confession, the petitioner was roped in. Apart from the confession, CDR particulars are now placed before this



Court, where under this petitioner is said to have spoken to the other accused as well as made Social Media calls. From the petitioner's mobile number calls had also been made to Odisha and Madhya Pradesh, from where it is suspected that ganja would have been procured.

11. It is seen that now the investigation is still in progress. Only after completion of the investigation, if in the final report there are not enough materials, this Court can grant bail to the petitioner. Once the quantity is commercial in nature and once *prima facie* it is alleged that the offence has international ramifications that the ganja was brought to Vedharanyam further enroute to Sri Lanka and it was intercepted and recovered, and at this stage, this court cannot apply the judgments as relied upon by the learned counsel to hold that only CDR material is available or to hold that there is any other violation. As far as the allegation regarding the suspension of the police personnel is concerned, this Court has gone through the charge memorandum issued to the said police personnel.

12. It is clear that with reference to the very same case when the police personnel apprehended one Maniraj, the allegation is that in order to screen him from the present offence and to delete some of the entries from his mobile number, the police personnel had gotten a bribe of about Rs.10 lakhs. It is another story that in such a serious offence, only departmental action alone is taken. That already has been commented upon by this Court in another order also.



13. Be that as it may, there is *prima facie* no material from the said inquiry as if the petitioner is falsely implicated in the place of Maniraj or anything. In view thereof, all the contention of the petitioner's cannot be concluded one way or the other considering the fact that the investigation is in the nascent stage and the quantity of ganja that is recovered is 200 kilograms.

14. For all the above reasons, at this stage, I am not able to consider the prayer of the petitioner to release him on bail. Accordingly, this Criminal Original Petition stands dismissed.

sd/-

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS

TO

1. The Inspector of Police,
Keezhaiyur Police Station,
Nagapattinam District.
2. The Superintendent,
District Prison,
Nagapattinam.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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