



CRL OP(MD). No.18176 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 13.11.2024

PRESENT

The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL OP(MD). No.18176 of 2024

Micheal Amalraj

... Petitioner/ Accused No.1

Vs

The State of Tamil Nadu,
Rep by the Inspector of Police,
NIBCID Police Station,
Thoothukudi
Thoothukudi District.
Crime No.09/2024..

... Respondent/Complainant

For Petitioner : Mr.Ka.Raamakrishnan

For Respondent : Mr.S.Ravi,
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :-

For Bail in Crime no.09/2024 on the file of the Respondent Police.

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CRL OP(MD). No.18176 of 2024

ORDER : The Court made the following order :-

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The petitioner/Accused, who was arrested and remanded to judicial custody on 03.09.2024, for the offence punishable under Sections 8(c) r/w 21(ii)(c) and 29(1) of NDPS Act, in Crime No. 09 of 2024, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that a secret information was received by the Inspector of Police, Q branch on 02.09.2024 at about 09.00 a.m., that an attempt is being made to smuggle Charas to Srilanka between 11.00 to 11.30 hours on that day. The Inspector of Police informed this to her immediate Superior at about 09.20 a.m., and recorded the same in the General Diary at about 09.40 a.m. Thereafter, the Inspector of Police proceeded to the spot along with two other constables and made a surveillance at about 11.45a.m. The Inspector of Police found three accused persons with gunny bags in their hands. After complying with the necessary formalities, the bag that was carried by the three accused persons were searched and 20 kgs of Charas packed in 20 packets was seized from first and second accused persons respectively and 18 kgs of Charas packed in 36 packets were seized from third accused. Thus, a total of 58 kgs of Charas was recovered from



CRL OP(MD). No.18176 of 2024

them. There are totally five accused in this case and the petitioner has been arrayed as A1.

3.Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

4.The main ground that has been urged by the learned counsel for the petitioner is that the petitioner is a practicing Advocate at Thoothukudi and there is some previous enmity with the police officials as a result of which, a false case has been foisted against him.

5.The petitioner has taken a stand that he was not in the scene of occurrence and he has been unnecessarily implicated in this case. To substantiate the above submission, the petitioner is relying upon the CCTV footage that was recorded.

6.When the matter came up for hearing before this Court on an earlier occasion on 22.10.2024, this Court directed the Deputy Superintendent of Police, NIBCID to carefully watch the CCTV footage and submit a report. In the light of

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CRL OP(MD). No.18176 of 2024

the above direction, a report has been filed by the Deputy Superintendent of Police, NIBCID. The relevant portion is extracted hereunder:

"4. It is submitted that being an investigation officer I have gone through the CCTV footage and seen that it is not clear as much as to found the persons who are in the footage. The footage is not clearly shown any persons. Further I have enquired with the neighbor woman who is clearly available in the footage and received a statement that the petitioner is an advocate and also doing business and regularly some various persons have come to the petitioner's home on any time and on the alleged day, the neighbor woman has never seen any police persons by arresting the accused. Further I have enquired with the alleged police officials namely Jeevamani (Q-Branch Sub-Inspector) and Iruthayarajkumar (Q-Branch Head Constable-1282) and they give a statement that they were not went to the petitioner's home and they were not connected to the allegations raised by the petitioner. Further the said Iruthayarajkumar is distant relative to the petitioner's wife and there is no such motive was arises between them.

5.It is submitted that the investigation reveals that the petitioner is having a frequent contact with the other accused for transacting the contraband. The petitioner is taking advantage of the unclear footage by claiming the unknown persons as Police officials."

7.The matter came up for hearing before this Court today. On going

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



CRL OP(MD). No.18176 of 2024

through the report submitted by the DSP, this Court found that DSP was not able to ascertain as to whether the person found in the footage was the petitioner. Therefore, I decided to watch the CCTV footage to see, if the petitioner can be identified from that footage.

8.On carefully watching the CCTV footage, it is seen that a person is entering into his house on 02.09.2024 at about 07.40 a.m., and 40 seconds. Thereafter, about three persons are entering into that house and a person is taken out of the house followed by a lady. The CCTV footage does not clearly show the face of the person, who entered the house and who was later taken away by the three persons, who came to that house.

9.In view of the above, the report submitted by the DSP seems to be correct.

10.Considering the fact that commercial quantity is involved in this case, the grind of Section 37 of NDPS Act has to be satisfied. The main ground taken by the learned counsel for the petitioner is that the petitioner was not available in the scene of crime and he was picked up from the house and a false case has been



CRL OP(MD). No.18176 of 2024

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foisted against him. The only evidence that is available as of now is the footage. Unfortunately, the CCTV footage is not clear and does not show the face of the petitioner.

11.The learned Additional Public Prosecutor submitted that out of five accused persons, A1 to A3 alone have been arrested and A4 and A5 are absconding. It was further submitted that A4 and A5, used to take the contraband from A1 to A3 and illegally transport it to Sri Lanka through Sea. The learned Additional Public Prosecutor further submitted that the investigation is pending at a crucial stage. There is one previous case pending against the petitioner, which also involves NDPS offence.

12.Taking into consideration of the facts and circumstances of the case and the materials placed before this Court, the petitioner has not satisfied the requirements of Section 37 of NDPS Act. Hence, this Court is not inclined to enlarge the petitioner on bail at this stage. Accordingly, this Criminal Original Petition stands dismissed.

13.It goes without saying that the petitioner will always be entitled to



CRL OP(MD). No.18176 of 2024

raise the defence that he was not present in the scene of crime and it is left open to the petitioner to rely upon the CCTV footage to establish that fact.

sd/-
13/11/2024

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/11 /2024
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNM

TO

1. The Inspector of Police,
NIBCID Police Station,
Thoothukudi, Thoothukudi District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
CRL OP(MD) No.18176 of 2024
Date :13/11/2024

RD(25/11/2024) 7P / 3C

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