



Crl.O.P.(MD) No.20178 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **20.12.2024**

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) Nos.20178 and 20515 of 2024

Crl.O.P.(MD) No.20178 of 2024

Prabu

... Petitioner/ A1

Vs.

State rep. by
The Inspector of Police,
PEW Madurai City PS,
Madurai District.
(Crime No.706 of 2024)

... Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to enlarge the petitioner/ A1 on bail in Crime No.706/2024 on the file of the Hon'ble Principal District Judge for EC and NDPS Case Madurai.

For Petitioner : Mr.K.Somasundarapandiyarajan, Advocate

For Respondent : Mr.S.Ravi
Additional Public Prosecutor

Crl.O.P.(MD) No.20515 of 2024

V.Parthiban

... Petitioner/ A4



Crl.O.P.(MD) No.20178 of 2024

Vs.

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State rep. by
The Inspector of Police,
PEW Madurai City PS,
Madurai District.
(Crime No.706 of 2024)

... Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to enlarge the petitioner/ A4 on bail in Crime No.706/2024 on the file of the Hon'ble Principal District Judge for EC and NDPS Case Madurai.

For Petitioner : Mr.N.Manimaran, Advocate

For Respondent : Mr.S.Ravi
Additional Public Prosecutor

COMMON ORDER

The petitioners/ A1 and A4, who were arrested and remanded to judicial custody for the offence under Sections 8(C) r/w 20(b)(ii)(C) and 29(I) of the 'Narcotic Drugs and Psychotropic Substances Act, 1985' (hereinafter referred to as 'NDPS Act' for brevity), on the file of the respondent, seek bail.

2.The case of the prosecution is that on 12.06.2019 at about 23.00 hours, a secret information was received by the Sub-Inspector of Police about sale of 'Ganja'. The same was recorded in the General Diary and it was informed to the superior and after obtaining prior permission, the police party proceeded to the spot. A1 was



Crl.O.P.(MD) No.20178 of 2024

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intercepted and he was informed about his rights under Section 50 of the NDPS Act and he waived the same and when a search was conducted, 4.75 kilograms of ganja was seized. He confessed that he had purchased the same from A2. Based on the same, the police team went to the house of A2 and seized 28.140 kilograms of ganja on the same day. A2 surrendered before the Court on 15.06.2024 and he was taken on police custody on 27.06.2024. He informed about the involvement of A3 and A4. Accordingly, A3 and A4 were arrested on 28.06.2024 when they were going in a car and 5 kilograms of ganja was seized from them. On their confession, it came to light that A5 is the wholesale dealer from whom A3 and A4 purchased ganja and it was sold to A1 and A2. There are totally five accused persons in this case and the petitioners have been arrayed as A1 and A4. A5 is still absconding. Thus, a total of 39.140 kilograms of ganja was seized.

3.The petitioners had filed the bail petitions earlier and the same was dismissed by this Court and after the completion of investigation and the filing of the police report, these bail petitions have been filed before this Court.

4.Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing on behalf of the respondent.



Crl.O.P.(MD) No.20178 of 2024

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5.The main ground that was urged by the learned counsel for A1 is that a false case was foisted against A1 and that what was recovered from A1 was only 4.75 kilograms even as per the case of the prosecution and the recovery that was made from the other accused persons is now being added and a commercial quantity is arrived at. The learned counsel submitted that A1 is suffering incarceration from 13.06.2024.

6.The learned counsel appearing for A4 submitted that A4 came into the scene much later and what was seized from A3 and A4 was only 5 kilograms. The learned counsel submitted that A4 has suffered incarceration from 29.06.2024.

7.This Court had the opportunity to go through the entire police report along with the materials collected during the course of investigation. It is seen that the involvement of A2 came to light only after A1 was arrested. The involvement of A3 and A4 came to light only after A2 was arrested. The main source of supply is from A5 and he is absconding till date. This Court also had the opportunity to look into the call detail records between the accused persons. Insofar as A1 is concerned,



Crl.O.P.(MD) No.20178 of 2024

during the relevant point of time, he was in contact with A2 for at least 27 times.

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Insofar as A4 is concerned, during the relevant point of time, he was in contact with A2 for 15 times and A5 for 6 times. It is also seen that there are bank transactions between A2 and A4. Based on the materials, this Court is able to ascertain the fact that A5 is the main supplier in this case and he supplies to A3 and A4 and they in turn, supplied to retailers like A1 and A2. If this chain of supply is not available, there is absolutely no reason as to how 28.140 kilograms of ganja was seized from the house of A2.

8.It is also brought to the notice of this Court that A1 has 6 previous cases against him and one case is under the NDPS Act. A4 has one previous case and that case pertains to IPC offence.

9.This Court is not able to see any mandatory violation in this case and the twin conditions under Section 37 of the NDPS Act has not been satisfied. The series of acts on the part of the accused persons is in the course of the same transaction and in furtherance of a common object and therefore, the total quantity that was seized has to be taken into consideration as against each accused person and not the individual seizure that was made. Hence, both these petitions are



Crl.O.P.(MD) No.20178 of 2024

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dismissed and there shall be a direction to the Principal Special Court for EC and NDPS Act Cases, Madurai, to dispose of C.C.No.427 of 2024 within a period of six months from the date of receipt of a copy of this order.

10.All steps shall be taken to secure A5 and to produce before the Court.

If A5 is not able to be produced within a reasonable time, the case shall be split-up and the trial shall be commenced as against A1 to A4.

sd/-
20/12/2024

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/01/2025

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

PKN

TO

- 1 THE PRINCIPAL DISTRICT JUDGE FOR EC AND NDPS CASE,
MADURAI.
- 2 THE INSPECTOR OF POLICE,
PEW MADURAI CITY POLICE STATION,
MADURAI DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.



Crl.O.P.(MD) No.20178 of 2024

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

ORDER
IN
Crl.O.P.(MD) Nos.20178 and 20515 of 2024
Date :20/12/2024

SS/SKN/SAR- /03/01/2025/ 7P/5C

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