



Crl.O.P(MD) No.20032 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 16/12/2024

PRESENT

The HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL OP(MD). Nos.20032 & 20474 of 2024

Geethan

... Petitioner/ Accused No.1
in Crl.O.P(MD) No.20032 of 2024

Aarthi

... Petitioner/ Accused No.6
in Crl.O.P(MD) No.20474 of 2024

Vs

The State of Tamil Nadu,
Rep. by the Inspector of Police,
Arumuganeri Police Station,
Thoothukudi District.
(Crime No. 119/2024.)

... Respondent/Complainant
in both petitions

(In both petitions)

For Petitioners : Mr.Vishnu J, Advocate

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

PETITIONS FOR BAIL Under Sec.483 of BNSS

COMMON PRAYER :-

For Bail in Crime No.119 of 2024 on the file of the respondent police



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COMMON ORDER : The Court made the following order :-

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The petitioners/Accused, who were arrested and remanded to judicial custody on 01.04.2024 respectively for the offences under Section 8(c) r/w 20(b)(ii) (C) and 25 of NDPS Act in Crime No.119 of 2024 on the file of the respondent police, seek bail.

2.The case of the prosecution is that a regular vehicle check-up was carried out during 2024 Parliamentary Election, a Car was intercepted, in which, A1 to A6 were travelling. On search of the Trunk of the vehicle by the Police, two bags were identified and it was ascertained that it contained Ganja. The Officials immediately informed the same to the Tahsildar and after his arrival, a search was conducted and it was found 20.600 kgs of ganja was available in the bags. There are totally 9 accused persons in this case and the petitioners have been arrayed as A6 and A1.

3.Insofar as the A1 is concerned, he earlier filed a petition in Crl.O.P(MD) No.20032 of 2024 and he was granted interim bail to attend ceremony of his father and after attending the ceremony he surrendered on 21.10.2024.

4.Insofar as the A6 is concerned, she earlier filed a petition in Crl.O.P (MD) No.13134 of 2024 before this Court and the said bail petition was dismissed on merits by order, dated 14.08.2024. A6 happens to be the wife of A5.



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5.The learned counsel for the petitioners submitted that a false case has been foisted against the petitioners and that the investigation has now been completed and police report has already been filed and therefore, considering the incarceration already suffered by the petitioners, the learned counsel requested for enlarging the petitioners on bail.

6.Per contra, the learned Additional Public Prosecutor by relying upon the counter filed by the respondent submitted that A1 is the main accused in this case and it is only A1, who had procured the contraband from Chennai and was transporting the same with the help of other accused persons to Tuticorin for selling the same on retail basis. The learned Additional Public Prosecutor further submitted that the Car, in which, the accused persons were travelling was intercepted by the officials during the routine vehicle check-up conducted during the Parliamentary election and it is thus a surprise check-up, which resulted in seizure of ganja. Therefore, there is no need for the respondent to foist a false case against the accused persons.

7.The learned Additional Public Prosecutor further submitted that insofar as A1 is concerned, there is one previous case for the offence under EC Act pending against him. That apart, both the petitioners have not satisfied the twin conditions under Section 37 of NDPS Act, since the case involves commercial



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quantity. He further submitted that there are no change in circumstances and hence, sought for dismissal of both the petitions.

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8.This Court has carefully considered the submissions on either side and perused the materials available on record.

9.In the case in hand, the vehicle check-up had taken place during parliamentary election and that surprise check-up resulted in recovery of the contraband. There are totally 9 accused persons in this case and A1 is said to have procured ganja from Chennai, which was taken to Tuticorin. The fact remains that A1 did not have any previous case for offence under NDPS Act and it was not a case on any previous information, which led to the seizure of ganja. In view of the same, there is no reason to assume that a false case has been foisted against A1. The fact remains that the contraband was seized and such seizure happened in the presence of Tahsildar and it was found that total of 20.600 kgs of Ganja was carried in two bags. In view of the same, unless and otherwise the twin requirements of Section 37 of NDPS Act is satisfied, bail cannot be granted as a matter of right to A1.

10.Insofar as A6 is concerned, she was also travelling in a Car. She is said to be the wife of A5. The case of the prosecution is that the accused persons wanted to give an impression as if they are travelling in a Car as a family and that everyone of the accused persons were aware of the fact that they were carrying



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ganja in the Car.

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11.The learned counsel for the petitioners submitted that A6 was actually travelling in a bus. To substantiate the same, the learned counsel relied upon the receipt for the payment towards ticket, that was given by the Travel Agency.

12.On going through the receipt, it is seen that this receipt was given by the Travel Agency for the bus which came up to Tiruchendur from Chennai. The specific case of the prosecution is that from Tiruchendur an attempt was made to travel towards Tuticorin and at which point of time, the Car was intercepted and the contraband was seized.

13.In the considered view of this Court, insofar as A6 is concerned, she happens to be the wife of A5 and there are no previous cases against A6 and she is the mother of a small child aged about 1 ½ years and she has also suffered incarceration from 31.03.2024 and this Court also takes into consideration the fact that investigation has been completed and police report has been filed and the same has been taken on file as C.C.No.352 of 2024 on the file of Principal Special Court for Trial of Cases under NDPS Act, Madurai and hence, inclined to consider enlarging A6 on bail by imposing conditions.

14.In the light of the above discussion, insofar as the bail application filed by A1, this Court finds that the twin condition has not been satisfied.



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Therefore, this Court is not inclined to grant bail to the petitioner/A1.

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15.Insofar A6 is concerned, this Court is inclined grant bail and the petitioner/A6 is ordered to be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Principal Special Court for Trial of Cases under NDPS Act, Madurai, and on further conditions that:-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[b] the petitioner shall report before the Principal Special Court for Trial of Cases under NDPS Act, Madurai on every date of hearing without fail;

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[d] the petitioner shall not abscond either during investigation or trial;

[e] On breach of any of the aforesaid conditions, the learned Judge/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed



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and the petitioner released on bail by the learned Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560];

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of BNS Act.

16.Accordingly, Crl.O.P(MD) No.20474 of 2024 stands allowed and Crl.O.P(MD) No.20032 of 2024 stands dismissed.

sd/-
16/12/2024

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16/12/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNM

To

1.The Sessions Judge,
Principal Special Court for Trial of Cases under NDPS Act,
Madurai.

2.The Inspector of Police,
Arumuganeri Police Station,
Thoothukudi District.

3.The Superintendent,
Central Prison, Palayamkottai.



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4.The Officer Incharge,
District Women Prison,
Kokkirakulam,
Tirunelveli District.

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

ORDER
IN
CRL OP(MD) No.20032 of 2024
Date :16/12/2024

ED/ /SAR- (16/12/2024) 8P / 6C

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