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Crl.O.P.No.166 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2025

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THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.166 of 2025

Sathiya @ Sivaprakasam

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
P-2, Otteri Police Station,
Chennai.
(Crime No.1340 of 2024).

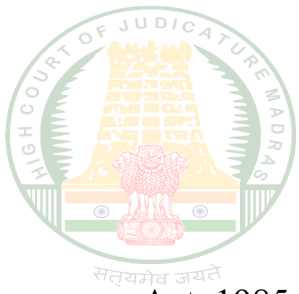
... Respondent

PRAYER : Criminal Original Petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, pleased to enlarge the petitioner on bail, in connection with Crime No.1340 of 2024, pending investigation on the file of the respondent Police.

For Petitioner : Mr.R.John Sathyan, Senior Advocate
for Mr.Swamisubramanian
For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

ORDER

Petition seeking bail in respect of Crime No.1340 of 2024 registered for the offences punishable under Sections 296(b), 132, 109, 351(3) of BNS and Sections 8(c) r/w 20(b)(ii)(B) of Narcotic Drugs and Psychotropic Substances



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Act, 1985 and Section 25(1A) of Arms Act and later, altered to the offences under Sections 296(b), 132, 109, 351(3) of BNS and Sections 8(c) r/w 20(b)(ii)(C) of Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 25(1A) of Arms Act , is on board for consideration.

2. The incarceration of the petitioner/A3 being from 10.12.2024 pleading innocence on the part of the petitioner and false implication in the case, learned Senior Counsel for the petitioner seeks indulgence of this Court. He also submits that the petitioner is in no way connected with the alleged offence and also there is no recovery from the petitioner herein, however, he was arrested only based on the confession statement recorded from A1 and A2. He further submits that even as per the prosecution the alleged contraband was recovered only from the first and the second accused. He also submits that the petitioner is ready to abide by any stringent condition that may be imposed by this Court.

3. The case of the prosecution as putforth by the learned Government Advocate (Criminal Side) appearing for the respondent police, opposing for grant of bail, is that on 09.12.2024, when the respondent and his team went to secure the first accused in respect of executing the non-bailable warrant issued against him in S.C.No.568 of 2023 pending on the file of the XIX Additional Court,



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Chennai, the first accused abused the respondent in filthy language and threatened them by showing gun, however, the respondent secured him and conducted search, during which, they have seized 5 kilograms of Ganja from A1's bag and further, from A2, 21 kilograms of Ganja was recovered, which totally constitute a commercial quantity. He further submits that the petitioner/A3 herein is the person who had assisted the first and the second accused in procuring the contraband from Andhra Pradesh and he acted as their accountant. He also submits that the account statement of the petitioner is yet to be received from the bank for analysing the money transaction in this regard. He further submits that there is no previous case against the petitioner, however, if he is released on bail, there is every possibility of him absconding and not available for further investigation.

4. At this juncture, the learned Senior Counsel for the petitioner reiterates that as far as the petitioner is concerned, there is no recovery from him and further, there is no bad antecedents against him. Hence, he prayed for grant of bail to the petitioner.

5. Having heard the learned Senior Counsel for the petitioner and the learned Government Advocate (Criminal Side) for the respondent Police and



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perused the materials available on record including the counter filed by the respondent Police and taking note of the fact that there is no recovery from the petitioner and he has no previous case and considering that the petitioner has satisfied the conditions required under Section 37 of NDPS Act, this court is inclined to grant bail to the petitioner with certain conditions and accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the learned **X Metropolitan Magistrate, Egmore, Chennai** and on further conditions that:

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

[b] the petitioner shall report before the respondent Police, everyday at 06.30 p.m., until further orders;

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

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

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate



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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 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 B.N.S.

07.01.2025

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To

1. The X Metropolitan Magistrate,
Egmore, Chennai.
2. The Inspector of Police,
P-2, Otteri Police Station,
Chennai.
3. The Superintendent,
Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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