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Cr1.O.P.No.6142 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2025

CORAM

THE HON'BLE MR. JUSTICE SUNDER MOHAN

Cr1.O.P.No.6142 of 2025

1.Arunkumar

2.Nithin

... Petitioners

Vs.

State Rep. by

The Inspector of Police

R7 K.K.Nagar Police Station

Chennai

(Crime No.219 of 2024).

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, to enlarge the petitioners on bail in Crime No.219 of 2024, on the file of the respondent police.

For Petitioner : Mr.Sujan Kumar

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Cr1.Side)

ORDER

This Criminal Original Petition has been filed by the petitioners/A1 & A3, who were arrested and remanded to judicial custody on 04.10.2024, seeking bail in Crime No.219 of 2024 registered for the offence under Sections 8(c) r/w.22(B), 25, 29(1), NDPS Act now altered into Section 8(c) r/w.22(c), 25, 29(1) NDPS Act.



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2.The case of the prosecution is that A1 to A5 were travelling in a car and it was intercepted by the respondent police and on search, they found that A1 was found to be in possession of 20 grams of Methamphetamine and A2 was found to be in possession of 30 grams of Methamphetamine and that A3 to A5 were also in constructive possession of Methamphetamine. Hence the case.

3.Learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. He also submitted that the petitioners are in custody from 04.10.2024 and they are ready to abide by any stringent condition that may be imposed by this Court. He also submitted the co-accused were released on bail in CrI.OP.Nos.32625 & 32665 of 2024 on 12.02.2025. Hence, he prayed for grant of bail to the petitioners.

4.Learned Government Advocate (CrI. Side) appearing for the respondent police, while opposing for grant of bail to the petitioners, reiterated the case of the prosecution. He further submitted that no recovery has been made from A3, that from A1, 20 grams of contraband has been seized and from A2, 30 grams of contraband has been seized, that from the other accused persons 35 grams of contraband has been seized and hence, the total quantity of contraband seized is an intermediate quantity. He further submitted that first petitioner/A1



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has one previous case and second petitioner/A3 has no previous case.

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5. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Cr1. Side) for the respondent Police and perused the materials available on record.

6. It is seen that from A1 & A2, who were travelling in a car, totally 50 grams of contraband (A1-20 grams & A2-30 grams) (i.e.,) intermediate quantity has been seized and thereafter, on their confession, the other accused were found in possession of contraband on different date. Apart from the confession of the co-accused, there is no other material connecting the other accused with A1 & A2. Hence, it cannot be construed as joint possession. Considering the above facts, this Court is of the view that rigors of Section 37 of NDPS Act would not be applicable to the petitioners.

7. Considering the nature of allegations, period of incarceration, the fact that the co-accused were already arrested and released on bail, the first petitioner/A1 is on bail in the previous case and the second petitioner/A3 has no bad antecedents, and since further custody is not required for the purpose of interrogation, this Court is inclined to grant bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of Rs. **15,000/-** (Rupees Fifteen Thousand



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only) each, with two sureties, for a like sum to the satisfaction of the learned

XXIII Metropolitan Magistrate, Saidapet, 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 petitioners shall report before the respondent Police, everyday at 10.30 a.m., until further orders;

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

[d] the petitioners 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 action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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

05.03.2025

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To

1.The XXIII Metropolitan Magistrate,
Saidapet,
Chennai

2.The Inspector of Police
R7 K.K.Nagar Police Station
Chennai

3.The Superintendent,
Central Prison at Puzhal, Chennai 66.

4.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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