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CrI.O.P.No.8850 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.04.2025

PRONOUNCED ON : 29.04.2025

CORAM

THE HON'BLE MR. JUSTICE SUNDER MOHAN

CrI.O.P.No.8850 of 2025

Azuka Alloysius

... Petitioner/A3

Vs.

Union Rep. by
The Junior Intelligence Officer,
NCB, Chennai Zonal Unit,
Chennai.
[R.R.No.45 of 2023]

... Respondent/Complainant

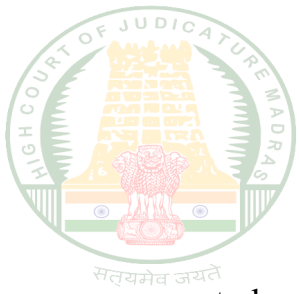
PRAYER: Criminal Original Petition filed under Section 483 of BNSS, pleaded to enlarge the petitioner on bail, pending trial in C.C.No.818 of 2024 on the file of the learned I Additional Special Judge, Special Court for EC and NDPS Act.

For Petitioner : Mr.M.G.Martin Manivannan

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor

ORDER

This Criminal Original Petition has been filed by the petitioner, who was

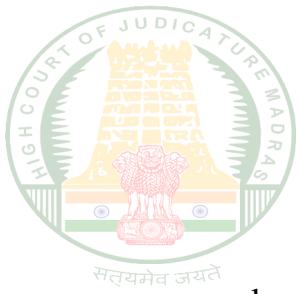


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arrested and remanded to judicial custody on 02.11.2023 seeking bail in connection with the case in R.R.No.45 of 2023 registered for the offence under Section 8(c) r/w Section 22(c), 23(c), 28 & 29 of NDPS Act, 1985.

2. The case of the prosecution is that on secret information, the officers of the respondent seized 3890 numbers of MDMA tablets totally weighing 1.583 Kgs at the Foreign Post Office, Chennai on 21.10.2023 bearing Postal Tracking No.EW131694821FR which is shipped from France; that the parcel revealed that it was addressed to one Morgan Srinivasan (A4), 21 Kumilar Parpu Perundurai, Krishna Weigh Bridge, Tamil Nadu; that the above said accused was apprehended and on his confession, it was revealed that the parcel was meant to be delivered to the second accused [Kingsley Obumenem] and this petitioner; that thereafter, the second accused and this petitioner were arrested and they confessed about the alleged crime; and that the parcel was ordered by the first accused, who was in custody in another case.

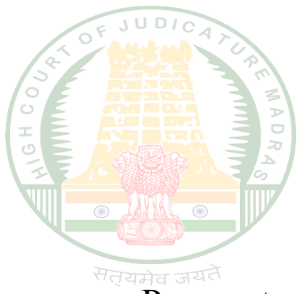
3. The learned counsel for the petitioner submitted that the allegations against the petitioner are false; that he is a football player; that he is an active member of the Association of Nigerians; that the respondent secured the second



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accused and were assaulting him; that the petitioner went to rescue the second accused without knowing the consequences; that the respondent who were enraged by the conduct of the petitioner, has falsely implicated the petitioner; that the petitioner has no bad antecedents; that the investigation is now completed and final report has been filed; and that further custody is not required for the purpose of investigation and hence, sought for bail.

4.The learned Special Public Prosecutor, *per contra* submitted that the parcel was booked by the first accused, who is a notorious offender; that it was booked in the name of the fourth accused; that after the contraband was intercepted at the Foreign Post Office, the fourth accused was apprehended; that since the fourth accused revealed that it was meant for a Nigerian national at Bangalore, the respondent laid a trap to apprehend the said person; that they took the fourth accused along with them to Bangalore; that the second accused came with this petitioner to receive the parcel; that both the second accused and this petitioner had confessed that the contraband was meant for them; that the petitioner is a Nigerian national and if he is let out on bail, he would not be available to face the trial; and that in any case, he has not satisfied the twin conditions under Section 37 of the NDPS Act and opposed the grant of bail. The learned Special Public



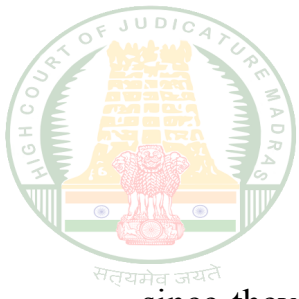
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Prosecutor also relied upon the averments made in the complaint to substantiate his case.

5. This Court has carefully considered the rival submissions and also perused the copy of the complaint.

6. The case of the respondent as found in the complaint is that the contraband i.e., 3890 Nos. of MDMA tablets, were booked by the first accused to be delivered in the name of the fourth accused and that the fourth accused in turn was supposed to hand it over to the second accused and this petitioner.

7. The only evidence against the petitioner is the confession of the co-accused. It is seen from the complaint that the fourth accused had confessed that the parcel was meant for one Nigerian national at Bangalore. He does not refer to two individuals. The complaint further reveals that the first accused and the second accused were closely acquainted with each other and they were in constant touch with each other through their mobile phones. The first accused was operating his mobile phone from the jail. The second accused, was known to the first accused, who is said to have booked the parcel. They knew each other



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since they were in jail together. The first accused was in touch with the fourth accused through mobile phone. Thus, this Court finds that in the complaint, there is material to connect A1, A2 and A4. However, the only material available to link this accused is the confession of the co-accused. There is no evidence to link him with either the first accused or the fourth accused. He was known to second accused alone and he was a fellow Nigerian. There are no bad antecedents against the petitioner.

8. In the light of the above facts, this Court is of the view that the petitioner has satisfied the twin conditions under Section 37 of the NDPS Act and hence, is inclined to grant bail to the petitioner with certain conditions. However, since the petitioner is a Nigerian national, the respondent shall inform the Registration Officer under the Registration of Foreigners Rules, 1992 about this order.

9. Accordingly, the petitioner is ordered to be released on bail on condition to execute 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 *I Addl. Special Judge, Special Court under EC & NDPS Act, Chennai*, and on further conditions that:-



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(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned 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 daily at 10.30 a.m. for the period of four months and apart from that, he shall appear for every hearing before the trial Court regularly without fail. If any deviation in complying any of the conditions, bail granted to the petitioner shall stand cancelled;

(c) the petitioner shall not commit any offences of similar nature;

(d) the petitioner shall not abscond either during investigation or trial;

(e) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(f) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate 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]***;



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(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC; and

[h] Since the petitioner is a Nigerian national, the respondent shall communicate the order of granting bail, to the concerned Registration Officer appointed under Rule 3 of Registration of Foreigners Rules, 1992 as per the decision of the Hon'ble Supreme Court in ***Frank Vitus vs. Narcotics Control Bureau and others in CrI. Appeal Nos.2814-2815 of 2024 dated 06.01.2025.***

29.04.2025

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SUNDER MOHAN., J.

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To

- 1.The I Additional Special Judge, Special Court for EC & NDPS Act, Chennai.
- 2.The Junior Intelligence Officer, NCB, Chennai Zonal Unit, Chennai.
- 3.The Superintendent of Prison, Central Prison, Puzhal, Chennai.
- 4.The Public Prosecutor, High Court, Madras.

Pre-delivery order
CrI.O.P.No.8850 of 2025

29.04.2025