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CrI.O.P.Nos.16884 & 16887 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.07.2025

PRONOUNCED ON : 20.08.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.Nos.16884 & 16887 of 2025

1.Jamaluddin

2.Jasheer Razak

... Petitioners in both petitions

Vs.

The Union of India,
Rep.by: The Intelligence Officer,
Directorate of Revenue Intelligence,
No.27, G.N.Chetty Road, T.Nagar,
Chennai 600017.

... Respondent in both petitions

COMMON PRAYER: Criminal Original Petition is filed under Section 483 of BNSS, to enlarge the petitioner on bail pending investigation in RR No.1 of 2023 in File No.DRI/CZU/VIII/48/ENQ/ INT-02/2023 on the file of Intelligence Officer, Directorate of Revenue Intelligence, Chennai in C.C.No.971 of 2023 before the I Addl. Special Court under EC & NDPS Act.



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CrI.O.P.Nos.16884 & 16887 of 2025

For Petitioner : Mr.C.Prakasam in both petitions

For Respondent : Mr.P.Vishnu,
Special Public Prosecutor in both petitions

COMMON ORDER

The petitioners/A1 & A2 arrested and remanded to judicial custody on 27.01.2023 in connection with C.C.No.971 of 2023 for offence under Sections 20(b)(ii)(C), 23, 28 & 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 on the file of the I Additional Special Court for exclusive trial of cases under the NDPS Act, Chennai.

2.The learned counsel for the petitioners submitted that the petitioners arrested by the respondent on 27.01.2023 and, in judicial custody from the date of the arrest for more than 28 months. The case projected against the petitioners is that officials of respondent examined the consignment of M/s.Jamal Industries which was imported to India through Bill of Entry No.4091192 dated 08.01.2023 for import of Azure Bathroom Vanity which was consigned by M/s.Bed and Bath Italia. When the consignment examined, it would lead to recovery of 56.06 kgs of Marijuana/hydroponic



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weed (Cannabis) filled in polythene packets deeply concealed under the sink basin made of Plaster of Paris sustained by false bottom of the said consignment. The consignment seized, mahazar prepared, thereafter, petitioners called for enquiry on 27.01.2023, they appeared before the respondent, gave their statements that A1 is the Proprietor of M/s.Jamal Industries and he obtained license on 19.10.2022 for his business development. A2 requested A1 to give IEC details for the purpose of importing kitchen steel from M/s.Polaris Home Design, USA since A2's cousin Fouzan who is in Dubai, needed kitchen sink for his use. Believing the same, A1 shared his IEC details with A2 on 18.11.2022, amount of Rs.1,20,000/- was arranged and A1 instructed to make remittance to M/s.Polaris Home Designs, USA for the value of \$1314. A1 on the instructions of A2 attempted to make payment. Since the particulars mismatched, the transactions could not go through, again tried on 26.11.2022 but remittance failed. Thereafter, A1 gave requisition to the bank to refund the amount and received Rs.1,00,000/- and redeposited to A2's account number on 30.11.2022 and the second payment also refunded on 03.01.2023.



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3.He further submitted that A1 acted on the instructions of A2. A2 on the instructions of his relative Fouzan gave details and acted upon and the transactions could not go through and they left at that stage. Suddenly, the petitioners summoned directing to appear before the respondent in Chennai on 27.01.2023, they appeared, gave statements and provided all details. But the respondent arrested them attributing knowledge of smuggling of Marijuana/hydroponic weed (Cannabis) weighing about 56.05 kgs which is valued around Rs.24 Crores in the international market. In this case, the petitioners had no knowledge and, not in conscious possession of any contraband as projected by the respondent. A1 obtained IEC license on 19.10.2022 but not done any import or export except the subject import. A2 was also not aware about this procedure and only on the instructions of Fouzen, who is in Middle East, the petitioners agreed to import the subject goods for a small monetary commission of Rs.20,000/-.



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4.He further submitted that it is the fourth bail application and the last bail application dismissed as not pressed. The petitioners have no previous cases against them. Due to ignorance and for small commission of Rs.20,000/-, they agreed to share his IEC number. According to the petitioners, the payment for this consignment not made by them and earlier attempt made by them, not accepted due to mismatch. Hence, Fouzen used IEC details of A1 which was given earlier with ulterior motive, for which the petitioners arrested. He further submits that the petitioners are in prison for more than 30 months and the trial is yet to commence though charge sheet filed on 21.07.2023. In support of his submissions, the learned counsel for the petitioners relied on the decision of the Hon'ble Apex Court in the case of ***Rabi Prakash v. The State of Odisha in Special Leave to Appeal (Crl.) No.4169/2023*** wherein it had held that prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act and had granted bail. Hence, prayed for bail.



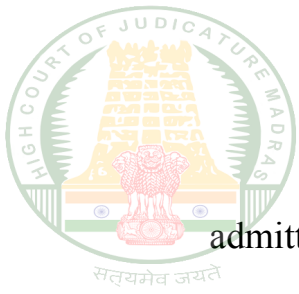
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5.The learned Special Public Prosecutor appearing for the respondent filed counter and submitted that on receipt of specific intelligence to the effect that a cargo consignment of Two Sink Basins which arrived from USA was taken up for examination. From the import documents, it is ascertained that M/s.Jamal Industries, Talapady, Mangalore, Karnataka filed a bill of entry No.4091192 dated 08.01.2023 for import of “Azure Bathroom Vanity” which was consigned by M/s.Bed and Bath India. Detailed examination led to the recovery of 73,618 grams Gross weight (subsequently confirmed as 56.05 kg by Judicial Magistrate, Special Court for Customs Act, Alandur *vide* order dated 06.02.2023) of Marijuana/hydroponic weed (Cannabis) covered under NDPS Act, 1985 filled in polythene packets which found deeply concealed under the sink basin made of Plaster of Paris sustained by false bottom of the said consignment. The same was tested for Marijuana/hydroponic weed (Cannabis) with the Drug Detection Kit and answered positive for Marijuana/hydroponic weed (Cannabis), a Narcotic Drugs covered under NDPS Act, 1985 (as amended). Thereafter, the contraband seized under the



mahazar proceedings dated 24.01.2023. He further submitted that the case was registered *vide* RR.01 of 2023 under Section 8(c) punishable under Sections 20(b)(ii)(C), 23, 28 & 29 of Narcotic Drugs and Psychotropic Substances Act, 1985. After completion of investigation, complaint filed in C.C.No.971 of 2023 before the trial Court.

6.He further submitted that A1 is the Proprietor of M/s.Jamal Industries (IEC Holder), in his statement under Section 67, admitted that A2 is his relative, on his request, he shared his IEC number, made arrangement for import of Azure Bathroom Vanity from M/s.Polaris Home Design, USA. A1 received payment from A2 for making remittance to M/s.Polaris Home Design USA on two occasions. Through Bank of Baroda remittance to foreign supplier M/s.Polaris Home Design USA for a sum of Rs.1,02,578/- and Rs.1,04,023/- made but reversed since details mismatched. A1 agreed to share his IEC number for a monetary concession of Rs.20,000/-. A1 and A2 in criminal conspiracy imported Azure Bathroom Vanity in which 56.05 kgs of Marijuana/hydroponic weed (cannabis) concealed. The petitioners agreed that they only placed order and imported the consignment and



admitted that A2's cousin Fouzan of Dubai arranged the subject shipment for monetary commission of Rs.20,000/- for A2 and the entire amount for consignment paid by Fouzen. Added to it, A1 shared Whatsapp chats with Fouzan in his Apple Mobile Number 8123117117 registered with Airtel which confirms Whatsapp chats and messages shared between all the three and they had regular touch with each other with regard to above consignment. He further submitted that on 26.01.2023, the DRI officials Mangalore made a search in the house of A1, at that time, in wardrobe of the bedroom, invoice dated 11.11.2022 and amount of \$1,314/- raised by M/s.Polaris Home Design, USA to M/s.Jamal Industries found and another notice dated 26.11.2022 also found. Both invoices signed by A1 recovered. The invoice number 8184 was found in both invoice documents which confirmed that A1 and A2 were aware of the goods consigned in the said cargo. He further submitted that in this case, there are only 14 witnesses and the trial itself can be completed without delay. Hence, he prayed for dismissal.



WEB COPY 7.This Court considered the rival submissions and perused the materials available on record.

8.This is the fourth bail applications of the petitioners. It is seen that M/s.Jamal Industries, Mangalore, Karnataka filed a bill of entry No.4091192 dated 08.01.2023 for import of Azure Bathroom Vanity which was consigned by M/s.Bed and Bath Italia. On examination, it lead to recovery of 56.05 kgs of Marijuana/hydroponic weed (cannabis) filled in polythene packets and concealed under sink basin made of Plaster of Paris.

9.A1 is the Proprietor of M/s.Jamal Industries, Mangalore, Karnataka. A1 in his statement under Section 67, admitted that he used his IEC number, received money from A2 and attempted to remit the amount to M/s.Polaris Home Design, USA through Bank of Baroda on two occasions. Both times remittance to the foreign supplier failed due to mismatch of details and the amount reversed to A1. The petitioners claimed that they only acted as per instruction of Fouzan, a relative of A2, but the Whatsapp chats of the



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petitioners and bank details *prima facie* shows the constant touch of the petitioners with Fouzan. Added to it, the seizure of invoices from A1's residence confirmed the case of the prosecution. The contention of the petitioners that only for a small monetary commission of Rs.20,000/-, the petitioners involved in importing of consignment, is not accepted since there is no material or proof to confirm the same. In this case, contraband seized 56.05 kgs of Marijuana/hydroponic weed (cannabis) is commercial quantity. Hence, this Court is not inclined to grant bail to the petitioners.

10.The decision relied upon by the learned counsel for the petitioner ***Rabi Prakash*** (cited supra) is not applicable to the facts of the present case for the reason that in that case a Truck in which the accused therein was one of the occupant sitting in the vehicle, the contraband seized from a compartment of the Truck and the petitioner was only a Traveller, nothing to do with the concealment and transportation, finding no conscious possession and involvement, further considering the period of incarceration and nothing directly attributed to the petitioner therein, the Hon'ble Apex Court granted bail. It is not the case herein.



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11.In view of the above and finding that there is no change in circumstances, Criminal Original Petitions are dismissed. Considering the period of incarceration of the petitioner, complaint already filed and there are only 14 witnesses, it would be appropriate to direct the the Trial Court to give priority and preference and to conduct the trial without giving long adjournments and complete the trial preferably within a period of six months from the date of receipt of a copy of this order.

20.08.2025

Speaking Order/Non Speaking Order

Index : Yes/No

Neutral Citation: Yes/No

vv2

To

- 1.The I Additional Special Court
for exclusive trial of cases under the NDPS Act,
Chennai.
- 2.The Intelligence Officer,
Union of India,
Directorate of Revenue Intelligence,
No.27, G.N.Chetty Road, T.Nagar,
Chennai 600017.
- 3.The Special Public Prosecutor for NDPS Cases,
Madras High Court.



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M.NIRMAL KUMAR, J.

vv2

PRE-DELIVERY ORDERS IN
CrI.O.P.Nos.16884 & 16887 of 2025

20.08.2025