



Crl.O.P.No.28232 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2025

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THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.28232 of 2024

A.Faisal Raja

... Petitioner/A1

Vs.

Union of India,
Rep. by the Intelligence Officer,
Office of the Directorate of Revenue Intelligence,
No.27, G.N.Chetty Road, T.Nagar,
Chennai – 600 017.
[File No.DRI/CZU/VIII/48
/ENQ-1/INT-06/2020]

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of BNSS, pleaded to enlarge the petitioner/A1 on bail, in C.C.No.103 of 2020 on the file of the learned Principal Special Judge for EC and NDPS Act Cases at Chennai in R.R.No.15 of 2020 (F.No.DRI/CZU/VIII/48/ENQ-1/INT-06/2020) on the file of the respondent police.

For Petitioner : Mr.M.Dinesh
for Mr.B.Pandiarajan

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor (NCB cases)

ORDER

This Criminal Original Petition has been filed by the petitioner/A1,



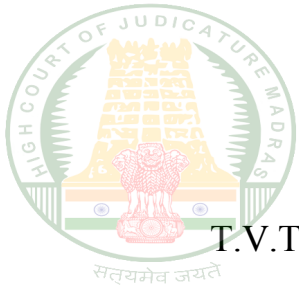
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who was arrested and remanded to judicial custody on 13.03.2020 seeking bail in R.R.No.15 of 2020 [F.No.DRI/CZU/VIII/48/ENQ-1/INT-06/2020] registered for the offence under Sections 8(c) r/w 22(c), 28, 29 and 31 of the NDPS Act.

2. It is the case of the prosecution that the respondent received a secret information, that one R.Vadivel [A4] was involved in illicit manufacturing of Tramadol Tablets in huge quantity and sending it to A2-Sai @ Thiagarajan through lorry transport, who in turn handed it over to this petitioner/A1-A.Faizal Raja; that on 12.03.2020, a consignment sent by A4 was lying at M/s.Lakshmi Cargo Company, located at Pariwakkam, which was to be collected by A2; that the respondent proceeded to the said place and intercepted A2 and A3-K.Sirajudeen, who were completing the formalities for clearance of subject consignment and they were arrested; that A2 and A3 informed that they had come to receive it, as per their plan with A1, the petitioner herein; and thus, committed the aforesaid offences.

3. This is the 9th bail petition. The earlier bail petition in Cr1.OP.No.16269 of 2024 was dismissed by Hon'ble Mrs.Justice



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WEB CO T.V.Thamilselvi on 25.07.2024. Though, the earlier bail petition of was dismissed by Hon'ble Mrs.Justice T.V.Thamilselvi, the present bail petition is listed before this Court, pursuant to the orders passed by the Hon'ble Division Bench of this Court in CrI.O.P.No.31787 of 2024 on 04.03.2025.

4. The learned counsel for the petitioner submitted that the co-accused [A4] was granted bail by this Court in CrI.OP.No.4967 of 2024 on 29.10.2024; that the other co-accused/A2 and A3 were granted bail by this Court on 08.04.2025 in CrI.OP.Nos.4125 of 2025 and 31588 of 2024; and considering the period of incarceration of the petitioner from 13.03.2020, prayed for bail. He also relied upon the judgments of the Hon'ble Supreme Court in ***Rabi Prakash vs. State of Odisha*** reported in **2023 SCC Online SC 1109** and ***Ankur Chaudhary vs. State of Madhya Pradesh*** in Special Leave to Appeal (CrI).No.4648 of 2024.

5. (i) The learned Special Public Prosecutor submitted that eight witnesses have been examined and the prosecution would dispense with the other witnesses and at the most examine three more witnesses; that the petitioner and other accused are delaying the trial and have not cross



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examined any of the witnesses; and that since the earlier bail applications were dismissed considering the seriousness of the offence, the petitioner is not entitled to bail.

(ii) The learned Special Public Prosecutor further submitted that in an earlier case, the petitioner was sentenced to seven weeks rigorous imprisonment for the offence under Section 9A r/w Sections 25A, 28 and 29 of the NDPS Act, in C.C.No.41 of 2010.

(iii) The learned Special Public Prosecutor also sought for a direction to the trial Court to dispose of the case at the earliest.

6. This Court has carefully considered the rival submissions and perused the available records.

7. The petitioner is in custody from 13.03.2020. The earlier petitions filed before this Court were dismissed considering the fact that the petitioner has not satisfied the twin conditions under Section 37 of the NDPS Act. Even now, this Court finds that the petitioner has not satisfied the twin conditions under Section 37 of the NDPS Act.



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9. The Hon'ble Supreme Court in *Ankur Chaudhary vs. State of Madhya Pradesh* in Special Leave to Appeal (Crl).No.4648 of 2024, had held as follows:

“it is to observe that failure to conclude the trial within a reasonable time resulting in prolonged incarceration militates against the precious fundamental right guaranteed under Article 21 of the Constitution of India, and as such, conditional liberty overriding the



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statutory embargo created under Section 37(1)(b) of the NDPS Act may, in such circumstances, be considered”

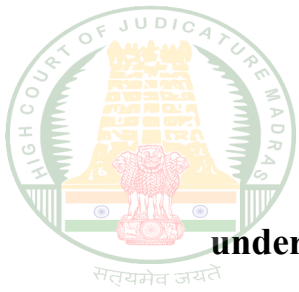
10. Further, in *Rabi Prakash vs. State of Odisha* reported in **2023**

SCC Online SC 1109, the Hon'ble Supreme Court held as follows:

“The 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) of the NDPS Act.”

11. Considering the fact that the co-accused were granted bail, the period of incarceration of the petitioner and the aforesaid observations of the Hon'ble Supreme Court, this Court is of the view that further incarceration would violate the petitioner's right under Article 21 of the Constitution of India, and hence, is inclined to grant bail to the petitioner. The trial Court may however, expedite the trial.

12. 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 **Principal Special Judge, Special Court**



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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 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., 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 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 B.N.S.

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SUNDER MOHAN, J.

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To

1. The Principal Special Judge,
Special Court under EC & NDPS Act, Chennai.

2. The Intelligence Officer,
Directorate of Revenue Intelligence,
G.N.Chetty Road, T.Nagar,
Chennai – 600 017.

3. The Superintendent of Prisons,
Central Prison, Puzhal, Chennai.

4. The Public Prosecutor,
High Court, Madras.

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