



Crl.O.P.Nos.30138 & 31997 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.01.2025

Pronounced on : 28.01.2025

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.Nos.30138 & 31997 of 2024

Konda Reddy ... Petitioner / A2 in Crl.O.P.No.30138 of 2024

Uppalapatti Anji ... Petitioner / A3 in Crl.O.P.No.31997 of 2024

Vs.

The State Rep. by
The Inspector of Police,
Muthialpet Police Station,
Flower Bazaar,
Chennai.

(Crime No.13 of 2023) ... Respondent / Complainant in both Crl.O.Ps

PRAYER: Criminal Original Petitions filed under Section 483 of B.N.S.S.,
prayed to enlarge the petitioners on bail in C.C.No.334 of 2023 on the file of
the Principal Special Court for EC and NDPS Act Cases, Chennai.



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For Petitioner : Mr. A.Tamilselvan,
in Crl.O.P.No.30138 of 2024

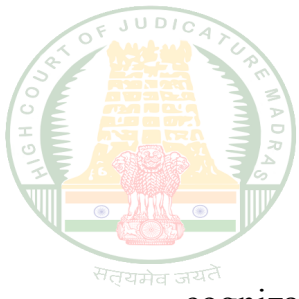
For Petitioner : Mr. T.S.Sasikumar,
in Crl.O.P.No.31997 of 2024

For Respondent : Mr. Vinothraja,
Govt. Advocate (Criminal Side)

COMMON ORDER

The 2nd accused has filed Crl.O.P.No.30138 of 2024 and the 3rd accused has filed Crl.O.P.No.31997 of 2024 both in Crime No.13 of 2023 registered under Section 8(c) r/w Sections 20(b)(ii)(C), 25 and 29(1) of NDPS Act, 1985. They were both remanded to judicial custody on 25.01.2023.

2.It is the case of the prosecution that the respondent received information about three persons trafficking Ganja from Telangana by way of Ashok Leyland Lorry bearing Registration No. TS-04-UC-1733. It is stated that the respondent intercepted the lorry and disclosed their identity. Thereafter when a search was made in the lorry, they found that there were totally 44 kgs of Ganja in the said lorry. It had been stated that subsequently investigation had been completed and final report had been filed and taken



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cognizance as C.C.No. 334 of 2023.

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3.The learned counsel for the petitioners stated that the petitioners do not know Tamil and that the procedures undertaken by the respondent were not translated into Telugu and explained to them. It was also contended that in the documents filed by the prosecution, there is no indication that at the time of custody and recovery of contraband, the petitioners were informed about their legal right in the language known to them, namely, Telugu. It was also contended that the previous cases were not under NDPS Act. It is also stated that in the charge sheet, it had not been disclosed from whom the petitioners had purchased the Ganja. The owner/dealer had not also been disclosed.

4.A counter affidavit had been filed on behalf of the respondent wherein it had been stated that on 25.01.2023, the respondents received information about illegal transportation of Ganja and had intercepted an Ashok Leyland Lorry bearing Registration No. TS-04-UC-1733. They recovered 44 kgs of Ganja. It had been stated that all the three persons, namely, the accused Nos. 1 to 3 had been taken into custody on the same day.



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It had been stated that the third accused has one previous case under NDPS Act pending against him. It was also stated that the investigation had been completed and final report had been filed and taken cognizance by the learned Principal Sessions Judge, EC & NDPS Act cases as C.C.No. 334 of 2023.

5.It had been strongly urged by the learned counsel for the petitioners that there has been no progress in the trial in C.C.No.334 of 2023 which is now pending before the Principal Special Court for EC and NDPS Cases Chennai. It has been pointed out that the petitioners have been suffering incarceration on and from 25.01.2023 for nearly two years. It was also pointed out that A1 had been granted bail, in Crl.O.P.No.26119 of 2024 by an order dated 12.12.2024, primarily on the ground of long period of incarceration. In this connection, reliance had been placed on the judgment of the Hon'ble Supreme Court in ***Crl. Appeal No.1247 of 2024*** arising out of ***SLP (Criminal) No.230 of 2024*** in ***Naeem Ahmed Alias Naim Ahmad Vs. Govt. of NCT of Delhi***, wherein, taking into consideration the long period of incarceration, bail had been granted.



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6. One further fact which had been stressed upon by the learned counsel for the petitioners is that there was no proper compliance of drawing of samples at the time of arrest and seizure of the contraband. That is an issue which will have to be examined during the course of trial.

7. Taking into consideration the substantial period of incarceration suffered by the petitioners and lack of commencement of trial for nearly two years as on date, I am inclined to grant bail to the petitioners to maintain parity with a similar order granted to the 1st accused and accordingly, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, (out of which, one surety must be a blood surety) each for a like sum to the satisfaction of the learned Principal Special Judge for EC and NDPS Act Cases, 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 trial Court everyday at 10.30 a.m., until further



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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 abscond, a fresh FIR can be registered under Section 269 of B.N.S.

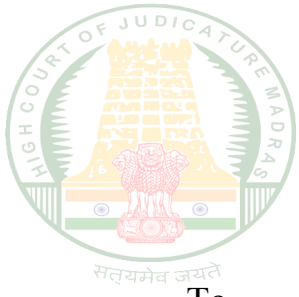
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Index: Yes / No

Neutral Citation: Yes / No

Speaking order : Yes / No



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To
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- 1.The Principal Special Judge for EC and NDPS Act Cases, Chennai
- 2.The Inspector of Police,
Muthialpet Police Station,
Flower Bazaar,
Chennai.
- 3.The Superintendent,
Central Prison - I, Puzhal, Chennai, (In respect of A2 is concerned)
- 4.The Superintendent,
Central Prison - II, Puzhal, Chennai, (In respect of A3 is concerned)
- 5.The Public Prosecutor,
High Court of Madras.

C.V.KARTHIKEYAN, J.

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