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CRL O.P. No.32153 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.01.2025

CORAM

The Hon`ble Mr.Justice P.DHANABAL

CRL OP.No.32153 of 2024

Nedunchezian @ Mani Achari ... Petitioner / Accused
Vs

State rep. by:-

The Intelligence Officer,
Union of India,
Chennai Zonal Unit, Chennai. ... Respondent
[R.R. No.25 of 2022]

PRAYER: - The Criminal Original Petition is filed under Section 483 of
B.N.S.S., praying to grant bail to the petitioner/Accused in R.R. No. 25
of 2022 on the file of the respondent police.

For Petitioner : Mr. M.G. Martin Manivannan
for Mr. D. Sugumar

For Respondent : Mr. N.P. Kumar,
Special Public Prosecutor
[for NCB Cases]

ORDER

The petitioner / Accused, who was arrested and remanded to
judicial custody on 24.04.2022 for the offences punishable under



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Sections 8(c), 12, 22(c), 23(c), 24, 28 and 29(1) of NDPS Act in R.R..

No.25 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that based on a secret information received, the officers of NCB, Chennai Zonal unit, seized total 184 grams of Methamphetamine concealed in Travel Bag at Anna International Airport, Chennai on 23.04.2022 from the possession of the petitioner. Hence the case.

3. The learned counsel for the petitioner would contend that the respondent police have registered a false case against the petitioner for the offences punishable under Sections 8(c), 12, 22(c), 23(c), 24, 28 and 29(1) of NDPS Act and he was arrested and remanded to judicial custody on 24.04.2022. In fact, the petitioner has not committed any offence as alleged in the FIR. The petitioner has no any previous case pending against him and he has been falsely implicated in this case. The requirements of Section 52-A of the NDPS Act has not been complied with. Without any trial proceedings, the petitioner is in judicial custody from the year 2022. Therefore prayed to grant bail to the petitioner.



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4. The learned counsel appearing for the petitioner has relied upon the following judgments of Hon'ble Apex Court:-

4(i) Crl. A (Crl) No.6690 of 2022.

4(ii) Ganesh Moorthy vs. The State represented by the Inspector of Police in Crl. A. (Crl) 3833 of 2023.

4(iii) Karthick Raja vs. The State represented by the Inspector of Police in SLP (Criminal) No.4523 of 2024 dated 14.08.2024.

4(iv) Venkatesan vs. The State represented by the Inspector of Police.

4(v) Sangram Sadashiv Suryavanshi vs. The State of Maharashtra in Special Leave to Appeal (Crl) No.13366 of 2024 dated 25.11.2024.

5. The learned Government Advocate (Criminal Side) would submit that the petitioner concealed the contraband in a bag, wherein found 184 grams of Methamphetamine. During enquiry, this petitioner stated that he along with other accused involved in this case. The CDR particulars of the petitioner's phone number shows that he made



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numerous calls to other accused. The contraband involved in this case is a commercial quantity. Hence, he strongly opposed to grant bail to the petitioner.

5. Heard both sides and perused the materials available on record.

6. In this case, no contraband was recovered from this petitioner and the petitioner is in judicial custody for the part 2 years and 9 months from 24.04.2022 and no trial has been commenced so far. In this context, the learned counsel for the petitioner has relied upon the following judgments:

(i) The Hon'ble Apex Court allowed the bail petition in **Crl. A (Crl) No. 6690 of 2022** dated 25.01.2023 by observing as follows:-

"It appears that some of the occupants of the Honda City Car including Praveen Maurya @ Puneet Maurya have since been released on regular bail. It is true the quantity recovered from the petitioner is commercial in nature and the provisions of Section 37 of the Act may ordinarily be custody for the past two and a half years. We are satisfied that the conditions of Section 37 of the Act can be dispensed with at this stage, more so when the trial is yet to be commenced though the charges have been framed".

(ii) In Ganesh Moorthy vs. The State represented by the



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Inspector of Police in Crl. A. (Crl) No.3833 of 2023 dated 31.08.2023,

held as follows:-

"The petitioner is in incarceration since 13.11.2022, it is submitted by the learned AAG that after completion of the investigation, final report has already been filed. Taking note of the quantity of Methamphetamine allegedly recovered from the petitioner and the period of incarceration of the petitioner, we are of the view that the petitioner can be ordered to be released on bail subject to the terms and conditions to be imposed by the trial Court. Ordered accordingly. Hence, the petitioner shall be produced before the trial Court forthwith to comply with the order. Further, there is no prior criminal history of the petitioner which may compel this Court to take the view that the petitioner will commit further offence after being enlarged on bail. Therefore, the petitioner satisfied this Court with regard to twin conditions as contemplated under Section 37 of the NDPS Act. Hence, this Court is inclined to grant bail to the petitioner".

(iii) Karthick Raja vs. The State represented by the Inspector of

Police in SLP (Criminal) No.4523 of 2024 dated 14.08.2024.

"Accepting the submission of the petitioner, the Hon'ble Apex Court allowed the bail petition in SLP (Criminal) No.4523 of 2024 dated 14.08.2024 by observing as follows:-

6. We also take notice that the charge sheet in the case was filed in the year 2023, and the trial has not commenced yet. We also take note that the present appellant was arrested in the year 2022, and has since been in custody....."

(iv) Venkatesan vs. The State represented by the Inspector of

Police.

"Accepting the submission of petitioner that the Hon'ble Apex Court allowed the bail petition by observing as follows:-

"Considering the period of incarceration already undergone by the petitioner which is about 2 years and the material placed on 1



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SLP (Crl) No.15840 of 2023 record, we are inclined to grant bail".

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(v) ***Sangram Sadashiv Suryavanshi vs. The State of Maharashtra.***

"Accepting the submission of petitioner that the Hon'ble Apex Court allowed the bail petition in Special Leave to Appeal (Crl) No.13366 of 2024 dated 25.11.2024 by observing as follows:- Before we part with this order, every day we notice that in several orders passed by different High Courts while rejecting the bail applications, in a routine manner, the High Courts are fixing a time bound schedule for the conclusion of the trials. Such directions adversely affect the functioning of the Trial Courts as in many trial Courts, there may be older cases of the same category pending. Every Court has criminal cases pending which require expeditious disposal for several reasons, such as the requirement of the penal statutes, long incarceration, age of the accused etc., only because someone files a case in our Constitutional Courts, he cannot get out of turn hearing. Perhaps, after rejecting the prayer for bail, the Courts want to give some satisfaction to the accused by fixing a time bound schedule for trial. Such orders are difficult to implement. Such orders give a false hope to the litigants. If in a given case, in law and on facts, an accused is entitled to bail on the ground of long incarceration without the trial making any progress, the Court must grant bail. Option of expediting the trial is not the solution".

Considering the rival submissions made on either side, considering the judgments relied by the learned counsel appearing for the petitioner, nature of offences, the period of incarceration of the petitioner for the past 2 years and 9 months, no previous case is pending against the petitioner and no trial has been commenced so far, this Court is inclined



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to grant bail to the petitioner subject to the following conditions:

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[a] Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the **Principal Court for EC & NDPS Act cases, Chennai** and on further conditions that:

[b] the petitioner shall report before the concerned NDPS Court on all working days at 10.30 a.m. until further orders;

[c] the petitioner shall not commit any offence similar to the offence of which she is accused, or suspected, or of the commission of which she is suspected;

[d] the petitioner shall not abscond either during investigation or trial;

[e] the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of



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the case so as to dissuade her from disclosing such facts to the Court or to any police officer or tamper with the evidence;

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[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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 B.N.S.2023..

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20.01.2025

index: Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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To

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1. The Principal Court for EC & NDPS Act cases, Chennai
2. The Public Prosecutor, Madras High Court, Chennai.
3. The Intelligence Officer, Union of India, Chennai Zonal Unit, Chennai.
4. The Superintendent of Police, Central Prison, Puzhal-II, Chennai.

P.DHANABAL,J
mjs

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