



CRL O.P. No.32593 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.01.2025

CORAM

The Hon`ble Mr.Justice P.DHANABAL

CRL OP.No.32593 of 2024

Muhammed Fasal S/o. Ashraf

... Petitioner / Accused-5

Vs

The Union Territory

represented by

The Station House Officer,

'D' Nagar Police Station,

Puducherry.

... Respondent

[Cr. No.138 of 2024]

PRAYER: - The Criminal Original Petition is filed under Section 483 of

B.N.S.S., praying to grant bail to the petitioner/Accused in Cr. No.138 of

2024 on the file of the respondent police.

For Petitioner : Mr. E. Anbarasan

For Respondent : Mr. K.S. Mohandass

Public Prosecutor, Puducherry.

assisted by

Ms. N. Dhanalatchumi,

Government Advocate [Pondy]

ORDER



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The petitioner / Accused-5, who was arrested and remanded to judicial custody on 27.10.2024 for the offences punishable under Sections 20(b)(ii)(A), 21(c), 22(c), 23(c) read with 8(c) of the NDPS Act in Cr. No.138 of 2024 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that based on the secret information with regard to the illegal transport of Narcotic substance, the respondent police party went to the scene of occurrence near auto stand, JIPMER, Gorimedu, Puducherry and they found A1 with illegal possession of 200 grams of dried Green Ganja, 16 blots of Multi coloured designed papers believed to be LSD and A2 with illegal possession of 180 grams of Hashish Oil (Ganja Oil) total worth about Rs.50,000/-. Hence A1 and A2 were arrested by the respondent police and based on the confession statement of A1, the respondent police seized 1600 blots of Multi Coloured designed papers believed to be LSD worth about Rs.24 lakhs from A4 and 60 grams of Ocean Ganja from A5, who came from Bangalore for sale of the Narcotics to the accused A1 and A2, which were procured from the accused A6 and A8. Hence the



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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 20(b)(ii)(A), 21(c), 22(c), 23(c) read with 8(c) of the NDPS Act and he was arrested and remanded to judicial custody on 22.08.2024. Even according to the prosecution, A1 and A2 were only arrested with contraband and based on their confession statements, A3 to A5 were implicated in this case and further, based of A1's confession statement, A6 to A8 were implicated in this case as accused and this petitioner has been arrayed as A5. This petitioner is not a named accused in the FIR and he has been implicated in this case by solely relying upon the confession statement of the co-accused and nothing was seized from this petitioner. In fact, the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. Investigation was completed and the case was taken on the file of Special Court, Puducherry in Spl. S.C. No.13 of 2024. The petitioner is in judicial custody for the past more than two months.



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Therefore prayed to grant bail to the petitioner.

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4. The learned Government Advocate (Criminal Side) would submit that the quantity of contraband involved in this case is a commercial quantity. A1 was arrested for the possession of the 200 grams of dried green Ganja, 16 blots of Multi coloured designed papers believed to be LSD and A2 for the illegal possession of 180 grams of Hashish Oil and A1 & A2 were arrested. Based on the confession statement of A1, 1600 blots of multi coloured designed papers worth about Rs.24 lakhs were seized from A4 and 60 grams of Ocean Ganja was seized from A5, which were procured from A6 and A8. The accused persons A1, A2, A4 and A5 had knowingly possessed banned Narcotics and commercial quantity of LSD for sale to the students, youth and general public and A3, A6, A7 and A8 sold the same to the accused persons A1, A2, A4 and A5, thereby, the accused persons A1 to A8 have committed serious offences. Preliminary charge sheet was also filed after altering Sections from the offences under Sections 20(b)(ii)(A), 21(C)



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r/w 8(c) of NDPS Act to Sections 20(b)(ii)(A), 21(c), 22(c), 23(c) read with 8(c) of the NDPS Act. Case is now pending in Spl S. C. No.13 of 2024. A3 and A7 are still absconding. The offences are grave in nature. Hence, he strongly opposed to grant bail to the petitioner.

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

6. Considering the rival submissions made by the learned counsels on either side, the nature of offences, even according to the prosecution, based on the confession statement of the co-accused, 60 grams of Ganja was recovered from this petitioner, which is not a commercial quantity, there is no previous case pending against this petitioner, considering the incarceration period of the petitioner from 27.10.2024 and also considering the fact that investigation was completed and preliminary charge sheet was also filed, this Court is inclined 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 **Special Judge (III Additional Sessions Judge, Puducherry** 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 he is accused, or suspected, or of the commission of which he 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 the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence;

[f] On breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action



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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 229A IPC.

10.01.2025

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

To

- 1.The Special Judge (III Additional Sessions Judge), Puducherry
- 2.The Public Prosecutor, Madras High Court, Chennai.
3. The Station House Officer, 'D' Nagar Police Station, Puducherry.
4. The Superintendent of Police, Central Prison, Puducherry.

P.DHANABAL,J
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