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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2025

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP(MD).2439 of 2025

Raja

... Petitioner / Accused No.8

Vs.

The State of Tamil Nadu rep by
The Inspector of Police,
NIB-CID, Madurai,
Madurai.
(Crime No.11 of 2024)

... Respondent / Complainant

PRAYER :- The Criminal Original Petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 praying to grant bail to the petitioner in Crime No.11 of 2024 on the file of the respondent-police.

For Petitioner : Mr.Niranjan S.Kumar,
Advocate.

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 05.02.2025 under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS) praying to grant bail.



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2. In this case, FIR was registered on 01.08.2024 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C), 25 and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985 against A1 to A10. During investigation four more persons were added as Accused Nos.11 to 14. Out of 14 accused persons, A1 to A12 were arrested and they are in judicial custody. A13-Mararaju (Ramu) and A14-Korra City Babbu are still absconding. The respondent-police filed charge sheet dated 25.01.2025 under Sections 8(c) r/w 20(b)(ii)(C), 25 and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. The petitioner herein / accused no.8 was arrested and remanded to judicial custody on 11.09.2024 for the alleged offences punishable under Sections 8(c) r/w 20(b)(ii)(C), 25 and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.11 of 2024 on the file of the respondent-police.

4. The case of the prosecution is that on 01.08.2024, based on secret information, the NIB-CID Q Branch police raided Meenakshi Bhavan Hotel near Chinna Udaippu, and at about 10:30 hrs, intercepted a lorry bearing Reg. No.TN-52-B-4416. Upon inspection, they found 120 kgs of ganja packed in four gunny bags in the lorry cabin



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and seized the contraband in the presence of Revenue officials. Accused Nos. 1 to 3 were secured and handed over to the respondent-police through a special report. Based on the confession of A1 to A3, the petitioner (A8) and others were implicated in this case. It was revealed that A1 to A3 had procured the ganja from A10 in Andhra Pradesh, loaded it onto the lorry, and transported it to Madurai. A4 and A5 escorted the lorry in a Baleno car, while A6 and A7 waited in Tirunelveli to receive the contraband. The plan was for A8 (the petitioner) and A9 to smuggle the ganja to Sri Lanka via Tiruchendur by boat. The petitioner (A8) was arrested on 11.09.2024 at 14:00 hrs. Hence, the case.

5. Mr.Niranjan S.Kumar, the learned counsel for the petitioner, submits that the petitioner has been arrayed as Accused No.8 in this case and no contraband was recovered from the petitioner. He further submits that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He further submits that the petitioner has been in judicial custody since 11.09.2024. He further submits that the petitioner did not commit any offence as alleged as he was not involved in the commission of the alleged offences. He further submits that the petitioner has been arrayed as an accused only based on the confession statement allegedly given by A1 to A3. The learned counsel further submits that the petitioner is



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a fisherman and some of the persons, who were arrayed as accused in this case, also fishermen. He further submits that no legal evidence has been collected to show the involvement of the petitioner in the offence. The alleged confession statement given by A1 to A3 is inadmissible against the petitioner. The CDR details are not sufficient to connect the petitioner to the crime. Accordingly, he prays that bail be granted to the petitioner. In support of his submissions, he relied on the following judgments:-

(i) Judgment of the Hon'ble Supreme Court of India in *State by (NCB)*

Bengal -vs- Pallulabid Ahmad Arimutta & Anr., and etc reported in 2022 *LiveLaw* (SC) 69.

(ii) Judgment of the Hon'ble Supreme Court of India in *State of West*

Bengal -vs- Rakesh Singh @ Rakesh Kumar Singh in Criminal Appeal No.923 of 2022.

(iii) Judgment of the Hon'ble High Court of Kerala at Ernakulam in

Amal E -vs- State f Kerala in BAIL APPL. No.2776 of 2023.

6. *Per contra*, Mr.R.Meenakshi Sundaram, the learned Additional Public

Prosecutor appearing for the respondent-police, submits that the respondent-police



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seized 120 kgs of ganja from A1 to A3. Based on their confession, the petitioner and other accused persons have been added as accused in this case. There are totally 14 accused persons in this case and the petitioner has been arrayed as A8. In the course of investigation, it has been ascertained that A1 and A10 had contacted A4 and had informed him that they will procure the ganja from Andra Pradesh. A4, in turn, is said to have got in touch with A7 to A9, who had agreed to smuggle the contraband to Sri Lanka via Tiruchendur by boat. He further submits that investigation agency collected call details report (CDR) relating to the mobile number of the accused persons. The analysis of the petitioner's mobile number shows frequent contact with A4 (140 calls), A7 (28 calls), and A9 (179 calls), which shows close nexus of the petitioner with the other accused. Further CDR details reveals the fact that from 21.04.2024 to 01.08.2024, A1, A4 to A8, and A10 were in close contact and communication. The prosecution claims that the CDR analysis provides substantial evidence connecting the petitioner to the crime. In view of Section 29 of the NDPS Act, rigors stated in Section 37 of the NDPS Act would be applicable to the present case. He further submits that the petitioner has eight eight previous cases *inter alia* for the offences punishable under Sections 302 and 307 of IPC also. He further submits that if the petitioner is released on bail, he will tamper with the witnesses and hamper the investigation. Further he will flee from India and thereby delay the trial. In



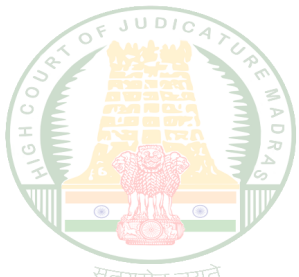
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support of his argument, the learned Additional Public Prosecutor relied upon the judgment in *Narcotics Control Bureau v. Mohit Aggarwal*, reported in (2022) 18 SCC 374.

7. Heard on both sides. This Court has perused the records.

8. It is stated that the CDR details and all other materials collected by the investigation agency would *prima facie* show the involvement of the petitioner in the crime. There are sufficient materials available on record to show that the petitioner also involved in the offence. The contraband seized from A1 to A3 is a commercial quantity. The petitioner has eight previous cases registered for the offences punishable under the Indian Penal Code. Out of eight cases, one case was registered under Section 302 of IPC. Hence, this Court is of the considered view that the petitioner has not satisfied the twin condition stated in Section 37(b)(ii) of the NDPS Act. To be noted, the above view is recorded only for the limited purpose of deciding the bail petition. The above view, in any way, would not cause prejudice to the rights of the petitioner to defend the case during the Trial. The citations relied upon by the learned counsel for the petitioner are not applicable to the facts of the present case.

Considering the above reasons and also considering the facts and circumstances of



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the case, the overt act alleged against the petitioner and taking note of the previous cases against the petitioner, this Court is not inclined to grant bail to the petitioner.

9. Accordingly, this Criminal Original Petition is dismissed.

sd/-

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Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PAL
TO

1 THE INSPECTOR OF POLICE,
NIB-CID,
MADURAI,
MADURAI

2 THE SUPERINTENDENT
CENTRAL JAIL, MADURAI.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.NIRANJAN S.KUMAR, Advocate (SR-2559[I] dated 07/03/2025)

ORDER

IN

CRL OP(MD) No.2439 of 2025

Date :07/03/2025

SS/VR/SAR- /13/03/2025/ 7P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023