



CRL OP(MD). No.20819 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/01/2025

PRESENT

The HONOURABLE MR. JUSTICE N.ANAND VENKATESH

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R.Shanmugaprabhu

... Petitioner/ Accused No.18

Vs

The Inspector of Police,
Andipatti Police Station,
Theni District.
Crime No.19 of 2023.

... Respondent/Complainant

For Petitioner : Mr.Manimaran .Na, Advocate.

For Respondent : Mr.S.Ravi, Additional Public Prosecutor

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :-

To release the petitioner / Accused on bail in Crime no.19 of 2023 in C.C.No.989 of 2023 now pending Special Principal District Judge for EC and NDPS Act Cases Madurai on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner / Accused No.18, who was arrested and remanded to judicial custody on 19.10.2023 and was facing trial for offences under Sections 8(c) r/w 20(b)

(ii)(C), 25 and 29(1) of NDPS Act in C.C.No.989 of 2023 on the file of the learned



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Special Principal District Judge for EC and NDPS Act Cases, Madurai in connection with Crime No.19 of 2023, on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that the respondent - Police received a tip-off that ganja is being transported in an Ashok Leyland lorry with a name Duwaraka, with the contraband concealed between the boxes containing dried fish and the same will pass through Theni in the early morning. The said information was entered in general diary and after informing the superior officials, the respondent - Police reached the check post at Thimmarasanayakanur Watertank in Andipatti to Madurai main road at about 6 am. The lorry as described in the tip-off came to the spot and the Police introduced themselves to the Accused 1 to 3 (Abubakar Sedhiq, Selvaraj and Chinna Samy) who were all traveling in that vehicle. After getting consent that the lorry to be searched by the presence of a Gazetted Officer, after preparing the consent letter and sending that letter to Tasildar of Andipatti and Thimmarasanayakanur and the said authorities being present at that time at 8 am upon being checked, the lorry contained 29 white colour plastic bags along with the dried fish contained in palm leaf container boxes. Upon further inspection, a total of 1200 kgs of ganja was recovered. As per the confession given by the accused 1 to 3, who conspired with one Pandi @ Jeyachandran and as per the conspiracy, they went to Andra Pradesh in a lorry bearing Registration No.TN 65 AW 5956, where they contacted one Ram babu



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belonging to Paderu, Andra Pradesh, and one Chellapandi of Chintapalle and went to the nearby Devavaram Village, where one Keshava Rao was standing in a small road near the forest area and another person by name Prasad, who also belongs to the same area, took out these 1200 kgs of ganja, which was hidden in the haystack and loaded the same and thereafter the accused 1 to 3 went to Kakinada and also purchased the dried fish to sell the contraband they had arranged the same above the contraband and were transporting the same. Upon which the police intercepted and caught them with the contraband. There are totally eighteen accused persons in this case and the petitioner has been arrayed as Accused No.18.

3. The investigation has been completed and the police report has been filed and the case is now pending before the learned Special Principal District Judge for EC and NDPS Act Cases, Madurai in C.C.No.989 of 2023.

4. The respondent has filed a counter-affidavit and has taken a stand that the present case involves 1200 kgs of ganja and the same was seized from Accused Nos.1 to 3 and the involvement of the other accused persons came to light based on their confessions. A further stand has been taken to the effect that the accused persons are involved in smuggling the contraband to Srilanka. That apart, there are two previous cases against the petitioner, out of which, one case involves commercial quantity.

5. The learned counsel appearing for the petitioner submitted that a false case



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has been foisted against the petitioner allegedly based on the confession of the co-accused. The learned counsel also brought to the notice of this Court the earlier order passed by this Court in Crl.O.P.(MD).Nos.16486 and 18297 of 2024 dated 07.11.2024, wherein, Accused Nos.6 and 17 were enlarged on bail. The learned counsel submitted that the reasoning that was given by this Court will equally apply to the case in hand. The learned counsel also brought to the notice of this Court that the petitioner is suffering incarceration from 19.10.2023.

6. The learned Additional Public Prosecutor appearing for the respondent Police submitted that the bail granted in favour of Accused Nos.6 and 17 cannot be taken advantage by the petitioner, since there are two previous cases against the petitioner, out of which, one case involves commercial quantity. The learned Additional Public Prosecutor further submitted that after the earlier order was passed by this Court, a representation was given to the Director General of Police informing the slipshod manner in which the investigation was conducted in a case involving 1200 kgs of ganja. He further submitted that till date, there has been no response and hence, the accused persons, who were involved in this case are taking advantage of the same and as a result, public interest is affected.

7. This Court has carefully considered the submissions made on either side and the materials available on record.



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8. In the considered view of this Court, the reasoning that was assigned by this Court while granting bail to Accused Nos.6 and 17 will equally apply to the petitioner also. The petitioner has been added as an accused based on the confession of the co-accused and there is no other material available. Out of two previous cases against the petitioner, one case involving commercial quantity has already ended in acquittal in C.C.No.991 of 2023 by judgment dated 30.07.2024. The other case pending against the petitioner involves intermediate quantity and in that case, Accused No.17 is also a co-accused and he has already been enlarged on bail by this Court. In view of the same, the earlier order will enure in favour of the petitioner also.

9. While passing the earlier order on 07.11.2024, this Court gave sufficient time to the prosecution to collect and place necessary materials before the Court. The said observation is found at Paragraph No.13 of the earlier order. In spite of the same, the prosecution has not produced any materials. The matter involves 1200 kgs of ganja and it cannot be dealt with in a cavalier fashion. When the State Government is trying to take all steps to curb the drug menace, the prosecuting agency must show more vigor in conducting the investigation in an effective manner. It is brought to the notice of this Court that a letter has already been addressed to the Director General of Police in this regard.



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10. There shall be a direction to the Director General of Police, Chennai, to immediately act upon the letter and if required, order for a further investigation in this case by the Narcotic Intelligence Bureau in order to collect sufficient materials to substantiate the charges against other accused persons. A decision shall be taken in this regard within a period of two weeks from the date of receipt of a copy of this order. Hence, a copy of this order shall also be marked to the Director General of Police, Chennai.

11. In view of the above, this Court is inclined to grant bail to the petitioner subject to the following conditions.

12. Accordingly, the criminal original petition is ordered and the petitioner is ordered to be released on bail on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Special Principal District Judge for EC and NDPS Act Cases, Madurai 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 petitioner shall report before the respondent Police daily at 10.30 a.m. except on those dates when the case is posted for hearing before the trial Court until



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further orders.

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[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond 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 of BNS, 2023.

sd/-
22/01/2025

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22/01/2025

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

TSG
TO

1 THE JUDGE,
SPECIAL PRINCIPAL DISTRICT JUDGE FOR EC AND NDPS ACT CASES,
MADURAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

<https://www.mhc.tn.gov.in/judis>



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3 THE INSPECTOR OF POLICE, ANDIPATTI POLICE STATION,
THENI DISTRICT.

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

COPY TO

THE DIRECTOR GENERAL OF POLICE, CHENNAI.

ORDER

IN

CRL OP(MD) No.20819 of 2024

Date :22/01/2025

RS/IT/SAR-(22.01.2025) 8P 6C

Madurai Bench of Madras High Court is issuing
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