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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19/03/2025

PRESENT

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

CRL OP (MD) No.21569 of 2024

C. Selvam,
S/o. Chinnakarupan,
Pethanachi Amman
Kovil Backside,
Shivaram Nagar,
Theni District.

... Petitioner/ Accused No.5

Vs

The State of Tamil Nadu,
Rep. by the Inspector of Police
S.S. Colony Police Station,
Madurai City,
(Crime No.227 of 2024)

... Respondent/ Complainant

For Petitioner : Mr.Manimaran.Na.,
Advocate.

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

PETITION FOR BAIL Under Sec.483 of BNSS



PRAYER :-

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To grant bail for the petitioner/A5 in C.C.No.395 of 2024 on the file of the Principal Special Court for NDPS Act Cases, Madurai in connection with Crime No.227 of 2024, on the file of the respondent-police.

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 05.12.2024 under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to grant bail.

2. The petitioner/Accused No.5 was arrested and remanded to judicial custody on 15.05.2024. The petitioner is facing trial in C.C.No.395 of 2024 on the file of the learned Principal Special Judge for NDPS Act Cases, Madurai for the offences punishable under Sections 8(c) r/w 20(b)(ii)(B), 25 and 29(1) of NDPS Act, in connection with Crime No.227 of 2024 on the file of the respondent-police.

3. The case of the prosecution is that on 02.05.2024, at about 18.50 hours, based on secret information received, the respondent-police were conducting a vehicle check-up near Viratipathu Union Office, Madurai, on Kalavasal to Theni Main Road. At that time, the police found that Accused No.1 was in possession of 1.600 kgs of

ganja in a Ford Aspire car bearing Registration No.TN-58-AL-9513.

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The respondent-police arrested Accused No.1 and seized the contraband. Based on the confession of Accused No.1, on 15.05.2024, A3 was arrested. Following the same, on the same day, based on the information given by A3, the A4 and the petitioner/A5 were arrested, and the respondent-police seized 13.500 kgs of ganja from them. Following the same, on 18.05.2024, near the entrance of the Omni Bus Stand, Mattuthavani, A6 to A8 were arrested, and 8.500 kgs of ganja was seized from A6 and A7. Hence, the case.

4. Mr.Na.Manimaran, the learned counsel for the petitioner, submits that the petitioner has nothing to do with the alleged offence and that a false case has been foisted against the petitioner. He further submits that only a sum of Rs.49,500/- has been recovered from the petitioner herein. He further submits that the petitioner is ready to abide by any conditions that may be imposed by this Court. He further submits that the petitioner has been in judicial custody from 15.05.2024. Hence, he prays for granting bail to the petitioner.

5. Per contra, Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor appearing for the respondent-police, submits that in this case, 1.500 kgs of ganja was seized from A1 on 02.05.2024, 13.500 kgs of ganja was seized from Accused Nos.3,



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4 and 5 on 15.05.2024, and 8.500 kgs of ganja was seized from Accused Nos.6 and 7 on 18.05.2024. He further submits that there are three previous cases pending against the petitioner, of which two cases are similar in nature. He also submits that since the petitioner and the other accused persons purchased the contraband with a common intention to sell it illegally and earn money and all the recoveries and seizures arose out of the same course of events, the recovery of ganja from the all accused persons should be taken into account while deciding whether the contraband constitutes a commercial quantity or not, and that the total contraband seized from all the accused persons comes within the category of commercial quantity. He further submits that the alleged amount recovered from the petitioner herein constitutes proceeds of crime. Further, he submits that the rigors stated in Section 37 of the NDPS Act would be applicable to this case. He relies upon the judgment of the Hon'ble Supreme Court in Narcotics Control Bureau v. Mohit Aggarwal, reported in (2022) 18 SCC 374. The learned Additional Public Prosecutor therefore prays to dismiss this Criminal Original Petition.

6. This Court has considered the submission made on either side.



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7. A bare perusal of the FIR would show that on 02.05.2024, at about 18.50 hours, the respondent-police intercepted the Ford Aspire car of A1 and seized 1.600 kgs of ganja from him, which is admittedly an intermediate quantity. A perusal of the Final Report filed by the respondent-police would show that on 15.05.2024, i.e., after 13 days from the first seizure, the respondent-police arrested the petitioner along with other accused persons and seized 13.500 kgs of ganja from them. The submission of the learned Additional Public Prosecutor is that the previous and further recoveries of ganja from the co-accused persons should be taken into account while deciding whether the contraband constitutes a commercial quantity or not. This Court is not inclined to accept the above submission for the reason that the seizures were not made at the same time. Hence, this Court is of the view that the quantity of contraband seized from the petitioner and other accused persons on 15.05.2024 is intermediate, and the rigors stated in Section 37 of the NDPS Act would not be applicable to the case. To be noted, the above view is recorded only for the purpose of deciding the bail petition. The above view, in any way, would not cause any prejudice to the rights of the prosecution in establishing the case during the trial.



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8. Considering the above, and also considering the fact that the petitioner has permanent residence, and therefore, there is less possibility of absconding, and with a view to give one more opportunity to the petitioner to reform himself, this Court is inclined to grant an order of bail to the petitioner, however, subject to the following conditions:

(i) The petitioner shall execute a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) along with two sureties each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the satisfaction of the learned Principal Special Judge, Principal Special Court for Trial of NDPS Act Cases, Madurai;

(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Principal Special Judge, Principal Special Court for Trial of NDPS Act Cases, Madurai, shall obtain a copy of any one of identity proofs to ensure their identity;

(iii) The petitioner shall attend in accordance with the conditions of the bond to be executed under Chapter XXXV of BNS, 2023;



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(iv) The petitioner shall not commit an offence similar to the offence of he is accused, or suspected, of the commission of which he is suspected;

(v) 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;

(vi) The petitioner shall not directly or indirectly cause any threat to the defacto complainant, and the witnesses;

(vii) The petitioner shall furnish his residential address and mobile number to the learned Principal Special Judge, Principal Special Court for Trial of NDPS Act Cases, Madurai;

(viii) The petitioner shall appear and sign before the learned Principal Special Judge, Principal Special Court for Trial of NDPS Act Cases, Madurai, on all working days at 10:30 a.m., until further orders; and



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(ix) On breach of any of the aforementioned conditions, the learned Principal Special Judge, Principal Special Court for Trial of NDPS Act Cases, Madurai, is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by him as laid down by the Hon'ble Supreme Court in P.K. Shaji vs. State of Kerala [(2005) 13 SCC 283].

9. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated supra.

Sd/-
19/03/2025

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21/03/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

tsg/jen
TO

- 1 THE PRINCIPAL SPECIAL JUDGE,
PRINCIPAL SPECIAL COURT FOR TRIAL OF NDPS ACT CASES,
MADURAI.
- 2 THE OFFICER INCHARGE,
DISTRICT PRISON, THENI.



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3 THE INSPECTOR OF POLICE
SS COLONY POLICE STATION, MADURAI CITY.

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

ORDER IN
CRL OP(MD) No.21569 of 2024
Date :19/03/2025

ES/ 21.03.2025/9P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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