



CRL OP(MD). No.21486 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 27/01/2025

PRESENT

The HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL OP(MD). No.21486 of 2024

K.Manikandan @ Mani

... Petitioner/ Accused-6

Vs

The Inspector of Police,
Perambalur PEW,
Perambalur,
Crime No. 346 of 2024.

... Respondent/Complainant

For Petitioner : Mr.M.G.Martinmanivannan, Advocate.

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

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :-

For Bail in Crime No. 346 of 2024 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner / Accused, who was arrested and remanded to judicial custody on 05.07.2024 for offences under Sections 8 (c), 20(b)(ii)(C), 25 and 29(1) of NDPS Act, 1985 in Crime No.346 of 2024, on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that on 18.05.2024 at about 06.30 hours, the



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Police received a tip-off, which was entered into the general diary and after informing the superior officials, a team was formed and a car was intercepted. Accused Nos.1 to 5 were found in the said car and on search, 65 bundles were taken from the trunk of the car. On verifying, it came to light that 130 kgs of ganja was transported in the car. There are totally eight accused persons in this case and the petitioner has been arrayed as Accused No.7.

3. Accused Nos.1 to 5 were arrested on 18.05.2024 at the time of seizure itself. Accused No.6 is said to have escaped and he is shown as an absconding accused. Accused No.7, who is the petitioner, was arrested on 05.07.2024 and Accused No.8 is also shown as an absconding accused in this case.

4. Insofar as the petitioner is concerned, he is said to have paid a sum of Rs.2,50,000/- as cash to Accused No.1 and Accused No.1 in turn had deposited the amount in the account of Accused No.8. Thus, the case of the prosecution is that the entire contraband was procured for the petitioner by Accused Nos.1 to 6 from Accused No.8 and the petitioner was attempting to smuggle the same to Srilanka. For this purpose, the petitioner is using his Srilankan sim-card and making Wifi calls using internet and he is not directly involving himself in this case.

5. The learned counsel appearing for the petitioner submitted that there was no recovery from the petitioner and the petitioner is sought to be roped in this case



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based on the confession of co-accused. The learned counsel appearing for the petitioner further submitted that there were two cases earlier registered against the petitioner, out of which, one case was for commercial quantity in Crime No.282 of 2022. In this case, the petitioner faced trial along with other accused persons in C.C.No.160 of 2023 and the case ended in acquittal by judgment dated 10.04.2024. He further submitted that on the very same day, when Crime No.282 of 2022 was registered, yet another FIR was also registered in Crime No.42 of 2024, in which, it is alleged that 500 gms of ganja was seized from the petitioner. He further submitted that a false case has been foisted against the petitioner. The learned counsel also brought to the notice of this Court that the investigation has been completed and the Police report has been filed and in the entire materials relied upon, there is nothing available against the petitioner except the confession of the co-accused.

6. Per contra, the learned Additional Public Prosecutor appearing for the respondent Police by strongly relying upon the counter affidavit filed by the respondent submitted that the earlier two bail applications filed by the petitioner was dismissed by this Court on merits and therefore, there is no change in circumstances. He further submitted that the prosecution in the course of investigation has traced the bank account that was operated by the accused persons. One bank account was operated by Accused No.4 and other bank account was operated by Accused No.8



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and the money that was deposited in their account was paid by the petitioner by way of cash. He further submitted that this petitioner is working behind the screen and he is not projecting himself, but however, it is this petitioner who is the kingpin in this case who is paying money and is making the other accused persons procure ganja in order to smuggle to Srilanka. He further submitted that the two previous cases against the petitioner also disentitle the petitioner from getting bail in this case. Accordingly, the learned Additional Public Prosecutor vehemently opposed the grant of bail to the petitioner.

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

8. In the case in hand, what is available against the petitioner (A7) is that the confession of the co-accused. Even though it is alleged that the petitioner is in touch with the accused persons, the Investigating Officer was not able to trace any phone calls between the other accused persons and the petitioner. Insofar as two previous cases that have been put against the petitioner, one case involves commercial quantity which ended in acquittal in C.C.No.160 of 2023 by judgment dated 10.04.2024. Insofar as the other case is concerned, it involves 500 gms. The materials as such do not link the petitioner to the crime except for the confession of the co-accused. It goes without saying that this is only a prima facie finding given by this



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Court and it will not bind the trial Court in any manner during the course of trial and while dealing with the case on merits.

9. Insofar as the dismissal of two earlier bail petitions are concerned, this Court did not have the opportunity of going through the police report and the materials collected during the investigation and this Court went by the FIR and the specific stand taken in the counter affidavit. Therefore, those dismissal orders will not come in the way of dealing with this petition on merits based on the police report and the materials collected by the Police.

10. In view of the same, the petitioner has a strong and arguable case before the trial Court. Accordingly, the twin conditions under Section 37 of the NDPS act has been complied with.

11. In the light of the above discussion, 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.10,000/- (Rupees ten thousand only) with two sureties, each for a like sum to the satisfaction of the learned Additional District and Sessions Judge / Presiding Officer, Special court for EC and NDPS Act Cases, Pudukkottai and on further conditions that:-

[a] the sureties shall affix their photographs and Left Thumb Impression in the



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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 trial Court daily at 10.30 a.m. until further orders, apart from the dates on which the case is posted for hearing.

[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/-
27/01/2025

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27/01/2025

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

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TO

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1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE /
PRESIDING OFFICER, SPECIAL COURT FOR EC & NDPS ACT CASES,
PUDUKKOTTAI.

2 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.

3 THE INSPECTOR OF POLICE, PERAMBALUR PEW, PERAMBALUR.

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

ORDER
IN

CRL OP(MD) No.21486 of 2024

Date :27/01/2025

RS/IT/SAR-(27.01.2025) 7P 5C

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