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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). Nos.23158, 20115 of 2024 and 16 of 2025

Rajesh

... Petitioner/ Accused
in Crl.O.P.(MD).No.23158 of 2024

Amulraj

... Petitioner/ Accused
in Crl.O.P.(MD).No.20115 of 2024

Jeevanatham

... Petitioner/ Accused
in Crl.O.P.(MD).No.16 of 2025

Vs

The Inspector of Police,
Dhadikompu Police Station,
Dindigul District.
Crime No.324/2023

... Respondent/Complainant
in all petitions

For Petitioners : Mr.R.Venkatesan, Advocate.
(in Crl.O.P.(MD).Nos.23158 and 20115 of 2024)

For Petitioner : Mr.A.Balaji, Advocate
(in Crl.O.P.(MD).No.16 of 2025)

For Respondent : Mr.S.Ravi, Additional Public Prosecutor
(in all CRL OP's)



PETITIONS FOR BAIL Under Sec.483 of BNSS

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COMMON PRAYER :-

To enlarge the petitioners on bail in C.C.No.133/2024 on the file of the Principal Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases, Madurai in Cr.No.324 of 2023, on the file of the respondent police on such terms.

COMMON ORDER : The Court made the following common order :-

The petitioners / Accused, who were arrested and remanded to judicial custody on 15.11.2023 15.11.2023 and 27.10.2023 respectively and were facing trial in C.C.No.133/2024 on the file of the Principal Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases, Madurai in Cr.No.324 of 2023, on the file of the respondent police, for offences under Sections 8(c) r/w. 20(b)(ii)(C), 25 of NDPS Act, seek bail.

2. The case of the prosecution is that the Sub Inspector of Police received a secret information on 26.10.2023 at about 20.15 hours to the effect that the accused persons are in possession of contraband. Based on the same, it was recorded in the general diary and informed to the superior officers and after getting permission, the Police team went to the scene of occurrence. They spotted a two-wheeler with two persons travelling in the same (Accused Nos.1 and 2). The two-wheeler was intercepted and at that point of time, Accused No.2 managed to escape and Accused No.1 was surrounded by the Police. On being informed about his right and Accused No.1 having waived his right, search was conducted in the presence of the Village



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Administrative Officer and the Village Assistant. 11.500 kgs of ganja was seized from the bag which was kept in the front portion of the scooter. On confession of Accused No.1, Police team went to his house and conducted a search and 10 kgs of ganja was recovered from the house. Thus, a total of 21.500 kgs of ganja was seized along with the two-wheeler used by Accused No.1 and mobile phone of Accused No.1 was also seized. That apart, a sum of Rs.10,000/- was seized from Accused No.1.

3. The further case of the prosecution is that on 15.11.2023, Accused No.2 was arrested and he was found in possession of 1.500 kgs of ganja. His identity was established through confession of Accused No.1. Similarly, Accused No.3 was arrested on the same day and he was found in possession of 2 kgs of ganja. The specific case of the prosecution is that Accused No.3 is the wholesaler and he has purchased ganja from Accused No.4, who belongs to Andhrapradesh. In turn, Accused No.3 has handed over the ganja to Accused Nos.1 and 2 to be sold on retail basis. Thus, it is alleged that all the accused persons formed a chain and were actively involved in drug trafficking. As a result, the individual recoveries made from the other two accused persons was also added to the recovery that was made from Accused No.1 and the case of the prosecution is that a total of 25 kgs of ganja is involved in this case.

4. There are totally four accused persons in this case and the petitioners have



been arrayed as Accused Nos.1 to 3. Accused No.4 is still absconding in this case.

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5. The learned counsel appearing for Accused No.1 submitted that the seizure of the contraband is said to have taken place on 26.10.2024 in the presence of the Village Administrative Officer and Village Assistant and whereas, the materials available shows that the signature has been assigned by the Village Administrative Officer only on 27.10.2024. Hence, the very recovery of ganja from Accused No.1 is questionable. The learned counsel further submitted that a false case has been foisted against Accused No.1, since there are some previous cases against Accused No.1.

6. The learned counsel appearing for Accused Nos.2 and 3 submitted that individual recoveries are said to have been made from Accused Nos.2 and 3 and they were arrested only on 15.11.2023. The learned counsel submitted that there was absolutely no material to connect the recovery that was made from Accused Nos.2 and 3 to that of Accused No.1 except the confession of Accused No.1. The learned counsel further submitted that the very arrest of Accused No.3 is questionable, since the arrest is said to have taken place at 04.00 p.m., on 15.11.2023 and whereas, there are photographs which clearly shows that the arrest had taken place even in the morning at 06.13 a.m. Even if the case of the prosecution is taken as it is, at the best, only individual recovery from Accused Nos.2 and 3 can be taken into consideration and by no stretch, it can be added along with the recovery made from Accused No.1.



In such an event, Section 37 of the NDPS Act will not apply to Accused Nos.2 and 3.

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7. The learned Additional Public Prosecutor apart from reiterating the stand that has been taken in the counter affidavit submitted that the recovery from Accused No.1 has been clearly established to the tune of 21.500 kgs of ganja. He further submitted that the police report has already been filed and the materials clearly make out a prima facie case against Accused No.1. He further submitted that the signature of the Village Administrative Officer on 27.10.2023 cannot be doubted, since the recovery was done from two places insofar as Accused No.1 is concerned and it started on 26.10.2023 and it was completed only on 27.10.2023. Hence, the learned Additional Public Prosecutor submitted that a strong case has been established against Accused No.1 and that Accused No.1 already has twelve previous cases under the NDPS Act.

8. Insofar as Accused Nos.2 and 3 are concerned, the learned Additional Public Prosecutor submitted that the alleged illegal arrest is argued based on the some photographs which cannot be taken into consideration for the present. He further submitted that all the accused persons formed as a chain and they were involved in drug trafficking and therefore, Section 34 of IPC will clearly come into play and the individual recovery of contraband from Accused Nos.2 and 3 will also form part of the recovery made from Accused No.1 and thus, the total recovery of 25 kgs of ganja



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has to be attributed to all the accused persons. He further submitted that Accused No.4 is still absconding in this case and he belongs to Andhrapradesh and he was the one, who supplied the ganja to Accused No.3.

9. The learned Additional Public Prosecutor further submitted that there are nine previous cases against Accused No.2, out of which, four cases are under the NDPS Act. He further submitted that there are nine previous cases against Accused No.3 and all the cases are under the NDPS Act.

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

11. Insofar as Accused No.1 is concerned, this Court finds that there are prima facie materials to establish the recovery of 21.500 kgs of ganja from Accused No.1. Insofar as Accused Nos.2 and 3 are concerned, Accused No.2 is said to have travelled along with Accused No.1 in the two-wheeler and on seeing the Police, he escaped from the scene of occurrence. The identity of Accused No.2 is sought to be established by the police based on the confession of Accused No.1. The individual recovery that was made from Accused No.2 was 1.500 kgs. Insofar as Accused No.3 is concerned, what is available is the confession of Accused No.3 and also the confession of accused No.1 and it is an admitted case that two kgs of ganja was seized from Accused No.3. It is thus clear that insofar as Accused Nos.2 and 3 are



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concerned, there is individual seizure of ganja and they are sought to be roped in based on the confession of the co-accused and the prosecution was not able to collect any materials in terms of any phone calls made between the accused persons during the entire transaction. Thus, there is a strong arguable case for Accused Nos.2 and 3 to question the recovery made from them from being added along with the recovery made from Accused No.1. This Court also takes into consideration the previous cases against Accused Nos.2 and 3.

12. In the light of the above discussion, this Court is not inclined to enlarge Accused No.1 / petitioner in CrI.O.P.(MD).No.16 of 2025 on bail, since the twin conditions under Section 37 of the NDPS Act has not been satisfied. Insofar as accused No.2 and 3 / petitioners in CrI.O.P.(MD).Nos.23158 and 20115 of 2024 are concerned, the individual seizure made from these two accused persons are only 1.500 kgs and 2 kgs of ganja and except the confession of co-accused, no other material is available and hence, the compliance of Section 37 of the NDPS Act may not strictly apply to Accused Nos.2 and 3. This is only a prima facie finding of this Court based on the materials available and it will not have any bearing while the trial Court deals with the case on merits.

13. In view of the above, this Court is inclined to grant bail to the petitioners in CrI.O.P.(MD).Nos.23158 and 20115 of 2024 subject to the following conditions.



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14. Accordingly, the petitioners in CrI.O.P.(MD).Nos.23158 and 20115 of 2024 are ordered to be released on bail on their executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, with two sureties, each for a like sum to the satisfaction of the learned Principal Special Judge for Trial of Narcotic Drugs and Psychotropic Substances 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 petitioners in CrI.O.P.(MD).Nos.23158 and 20115 of 2024 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 petitioners in CrI.O.P.(MD).Nos.23158 and 20115 of 2024 shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners in CrI.O.P.(MD).Nos.23158 and 20115 of 2024 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners in CrI.O.P.(MD). Nos.23158 and 20115 of 2024 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

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[(2005)AIR SCW 5560].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of BNS, 2023.

15. In the result, CrI.O.P.(MD).Nos.23158 and 20115 of 2024 stand allowed and CrI.O.P.(MD).No.16 of 2025 stand dismissed.

sd/-
27/01/2025

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27/01/2025

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

TSG
TO

1 THE JUDGE,
PRINCIPAL SPECIAL COURT FOR TRIAL OF
NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT CASES,
MADURAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE,
DHADIKOMPU POLICE STATION,
DINDIGUL DISTRICT.

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



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ORDER
IN

CRL OP(MD). Nos.23158, 20115 of 2024 and 16 of 2025
Date :27/01/2025

RS/IT/SAR-(27.01.2025) 10P 5C
Madurai Bench of Madras High Court is issuing
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