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CRL OP Nos. 4027 & 4029 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-04-2026

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THE HON'BLE MR. JUSTICE C.KUMARAPPAN

CRL OP Nos. 4027 & 4029 of 2026

CRL OP No.4027 of 2026:

Madhu @ Madhan

..Petitioner(s)

Vs

State Rep By,
Inspector of Police
PEW-Periyapalayam Police Station,
Chennai.
(Cr.No.29/2025)

..Respondent(s)

CRL OP No. 4029 of 2026:

M.Vinoth Kumar

..Petitioner(s)

Vs

State Rep By,
Inspector of Police
PEW-Periyapalayam Police Station,
Chennai.
(Cr.No.29/2025)

..Respondent(s)

CRL OP No. 4027 of 2026

Criminal Original Petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, to enlarge on bail in C.C.No.693 of 2025 in Crime No.29 of 2025 pending on the file of the II Additional Special Judge, Special Court for EC and NDPS Act, Chennai.



CRL OP No. 4029 of 2026

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For Petitioner(s): Mr.K.Subburaj
(in both Crl.OPs)

For Respondent(s): Mr.S.Vinoth Kumar
Government Advocate (Criminal Side)
(in both Crl.OPs)

COMMON ORDER

The petitioners, who were arrested and remanded to judicial custody on 01.03.2025 for the alleged offences punishable under Section 8(c) read with Sections 20(b)(ii)(C), 29(1) and 25 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, in Crime No.29 of 2025 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that, acting on the secret information, the respondent police arrived at the scene of occurrence and found the petitioners, along with other accused persons, in possession of 21.050 kilograms of ganja. Hence the case.

3. The learned counsel for the petitioners would submit that though the



alleged recovery from the petitioners was 21.050 kilograms, no recovery was made from A4 (Madhu @ Madhavan), and the recovery was attributed only to A3 (Vinoth Kumar). The learned counsel relies upon the order of the Special Court dated 07.07.2025 regarding the disposal of property. He invites the attention of this Court to the fact that at the time the contraband was sent for disposal, the total quantity was recorded as 19 Kilograms (intermediate quantity). Therefore, he argues that the prosecution's claim of recovering 21.050 kilograms is falsified by the 'A' Register relied upon by the Special Court during the disposal process on 07.07.2025.

4. Further, the learned counsel for the petitioners would submit that out of the six accused, A5 and A6 have already been granted bail. He also relies on the judgment of the Hon'ble Supreme Court in *SLP (Crl.) No. 10670 of 2023 dated 02.11.2023*, where the Apex Court granted bail considering the long incarceration of the petitioner. As the petitioners in the present case have been incarcerated for more than one year, he prays for grant of bail.

5. The said contention was strongly opposed by the learned Government Advocate (Criminal Side) appearing for the respondent, who submitted that the total quantity initially seized was 21.050 kilograms, and it was only after deducting samples that the weight reached 19 kilograms. Therefore, the recovery remains a "commercial quantity". He further submitted that though no

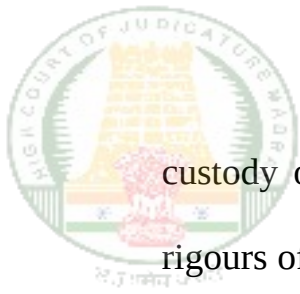


recovery was made directly from the A4, he was travelling with A3 on a two-wheeler at the time of the seizure. Thus, the recovery from A3 must be construed as recovery from A4. Since it is a commercial quantity, the rigours of Section 37 of the NDPS Act are attracted.

6. I have given my anxious consideration to the submissions made by the learned counsel on either side.

7. Though the learned counsel for the petitioners relies upon *SLP (Crl.) No. 10670 of 2023 dated 02.11.2023*, that case involved an intermediate quantity. Therefore, this Court is of the considered opinion that the ratio of that judgment is not applicable to the present case. The learned counsel for the petitioners further argued that since the weight recorded in the 'A' Register at the time of disposal was 19 kilograms, it should be treated as an intermediate quantity. However, this Court disagrees, as submitted by the Government Advocate, the 19 kilograms remained after the samples were deducted from the initial 21.050 kilograms seizure.

8. It is a well-settled principle of law that technical aspects cannot override the substance of the recovery. A balance must be maintained between Article 21 of the Constitution of India and Section 37 of the NDPS Act, as this is a case involving a commercial quantity. As the petitioners have been in



custody only since 01.03.2025, this Court finds no material to overcome the rigours of the NDPS Act. Consequently, this Court is not inclined to enlarge the petitioners on bail.

9. Accordingly, the Criminal Original Petitions are dismissed.

01-04-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

Jeni

To

- 1.The II Additional Special Judge, Special Court for EC & NDPS Act, Chennai.
- 2.The Superintendent, Central Prison, Puzhal, Chennai.
- 3.The Inspector of Police, PEW-Periyapalayam Police Station, Chennai.
- 4.The Public Prosecutor, High Court of Madras, Chennai.



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C.KUMARAPPAN J.

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