



WEB COPY

Crl.O.P.No.12542 of 2026



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2026

CORAM

THE HONOURABLE Mr. JUSTICE C.KUMARAPPAN

Crl.O.P.No.12542 of 2026

Soyal Rana

... Petitioner

Vs.

Inspector of Police,
PEW Ambattur,
Chennai.
(Cr.No.148/2025)

... Respondent

PRAYER : Criminal Original Petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to enlarge the petitioner on bail pending trial in C.C.No.1913 of 2025 on the file of II Additional Special Judge NDPS Act, Chennai.

For Petitioner : Mr.T.S.Sasi Kumar

For Respondent : Mr.S.Yogaraja Sekar,
Government Advocate (Crl.Side)

ORDER

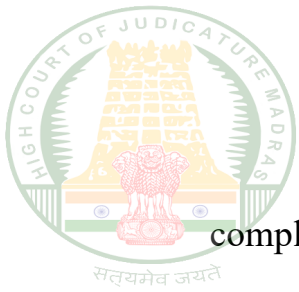
The petitioner who was arrested and remanded to judicial custody on 20.09.2025 for the offences punishable under Sections 8(c), r/w 20(b) (ii) (C) and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the NDPS Act' for short) in C.C.No.1913 of 2025 on the file of II Additional Special Judge NDPS Act, Chennai in connection with Crime No.148 of 2025 on the file of the respondent, seeks bail.

1/10



2. The case of the prosecution is that, on 20.09.2025, based on specific information, the respondent police proceeded to Ambattur O.T. Bus Stand at about 6.30 a.m. and apprehended three accused. During the search, 22 kgs of Ganja was allegedly recovered, of which 8 kgs each was recovered from A1 and A2, and 6 kgs from A3. Hence, the case.

3. The learned counsel for the petitioner would submit that, though the total quantity of Ganja recovered from all the three accused is 22 kgs, only 8 kgs of Ganja was allegedly recovered from the present petitioner. It is his further contention that, at the time of recovery, separate mahazars were drawn and only 8 kgs of Ganja was recovered from this petitioner, which constitutes only an intermediate quantity. The learned counsel would further submit that, except the alleged confession that all the accused had gone to Tripura and purchased the contraband from an unknown person, no material, such as train tickets, CDR particulars or money trail, has been produced before the Court. According to him, unless there are *prima facie* materials to establish such conspiracy, the recovery from this petitioner has to be considered independently and, in such circumstances, the quantity recovered would only be an intermediate quantity. Hence, it is contended that the rigour under Section 37 of the NDPS Act would not attract.



3.1. It is also the contention of the learned counsel for the petitioner that compliance with Section 50 of the NDPS Act is mandatory. In the present case, the accused are natives of Tripura and, at the time of conducting the search, it was the duty of the respondent police to inform them of their right to be searched before a Gazetted Officer or the learned Magistrate. Though the respondent police rely upon the notice issued under Section 50 of the NDPS Act, the said notice was issued in the Tamil language. The petitioner, being a native of Tripura and not conversant with Tamil, could not have understood the contents thereof. Accordingly, his valuable right to be searched before a Gazetted Officer or the learned Magistrate stood defeated, thereby rendering the recovery illegal and vitiating the entire trial. In that backdrop, it is contended that there exists a reasonable possibility of acquittal. In support of his contention, the learned counsel relied upon the judgment of the Hon'ble Supreme Court in *Amar Singh Ramjibhai Barot v. State of Gujarat* [Appeal (Crl.) No.1218 of 2005, dated 19.09.2005]. Hence, he prayed to enlarge the petitioner on bail.

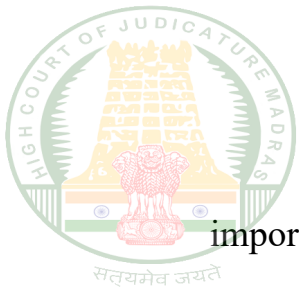
4. The said contention was stoutly opposed by the learned Government Advocate (Crl.Side) appearing for the respondent Police and would contend that the judgment relied upon by the learned counsel for the petitioner is distinguishable on facts. He would further submit that, even assuming for the



sake of argument that there is no material to establish conspiracy, the fact that all the three accused were apprehended together gives rise to a presumption of joint possession under Section 35 of the NDPS Act. Therefore, it is for the petitioner to explain before the Trial Court as to how all the three accused were found together at the time of search and seizure. It is his further contention that all the three accused had travelled together from Tripura and were present together at the time of interception. Therefore, the quantity recovered from all the accused has to be aggregated and, if so aggregated, it constitutes a commercial quantity, thereby attracting the rigour under Section 37 of the NDPS Act. Hence, he prayed to dismiss the present bail petition.

5. I have given my anxious consideration to either side submissions.

6. Coming to the mandatory requirement under Section 50 of the NDPS Act, the learned counsel for the petitioner relied upon the notice issued under Section 50 of the NDPS Act. As rightly contended by the learned counsel for the petitioner, the notice is in Tamil and there is no reference as to whether the petitioner was conversant with the Tamil language. In such circumstances, the contention is that the mere issuance of a notice under Section 50 of the NDPS Act in Tamil would not enable the petitioner to avail his right to be searched before a Gazetted Officer or the learned Magistrate.



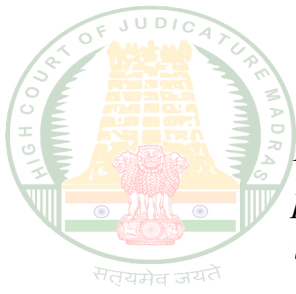
WEB COPY

7. Before delving into this aspect, it is necessary to examine the importance of compliance with Section 50 of the NDPS Act. In this connection, it is relevant to refer to the judgment of the Constitution Bench of the Hon'ble Supreme Court in ***Vijaysinh Chandubha Jadeja v. State of Gujarat***, reported in (2011) 1 SCC 609, wherein it has been categorically held that compliance with Section 50 of the NDPS Act is mandatory and that any deviation would vitiate the recovery of the contraband.

8. However, in the present case, apart from relying upon the notice issued under Section 50 of the NDPS Act, the learned Government Advocate (Crl.Side) invited the attention of this Court to the statement of the Investigating Officer, wherein it has been stated that the petitioner was informed of his right under Section 50 of the NDPS Act through one Aasik, who knew Hindi. Therefore, notwithstanding the fact that the written notice was in Tamil, the petitioner was informed of his right under Section 50 of the NDPS Act in Hindi through the said translator.

9. At this juncture, it is relevant to extract paragraph 24 of the judgment in ***Vijaysinh Chandubha Jadeja's case*** (cited supra), which reads as follows:-

"24. Although the Constitution Bench in Baldev Singh case [(1999) 6 SCC 172 : 1999 SCC (Cri) 1080] did not decide in absolute terms the question whether or not Section 50 of the



WEB COPY

Crl.O.P.No.12542 c



*NDPS Act was directory or mandatory yet it was held that provisions of sub-section (1) of Section 50 make it imperative for the empowered officer to “inform” the person concerned (suspect) about the existence of his right that if he so requires, he shall be searched before a gazetted officer or a Magistrate; failure to “inform” the suspect about the existence of his said right would cause prejudice to him, and in case he so opts, failure to conduct his search before a gazetted officer or a Magistrate, may not vitiate the trial but would render the recovery of the illicit article suspect and vitiate the conviction and sentence of an accused, where the conviction has been recorded only on the basis of the possession of the illicit article, recovered from the person during a search conducted in violation of the provisions of Section 50 of the NDPS Act. **The Court also noted that it was not necessary that the information required to be given under Section 50 should be in a prescribed form or in writing but it was mandatory that the suspect was made aware of the existence of his right to be searched before a gazetted officer or a Magistrate, if so required by him. We respectfully concur with these conclusions. Any other interpretation of the provision would make the valuable right conferred on the suspect illusory and a farce. ”***

According to the above judgment, though the Hon'ble Supreme Court has made it clear that compliance with Section 50 of the NDPS Act is mandatory, it has also clarified that there is no prescribed format for issuing notice under Section 50 of the NDPS Act and that such notice need not necessarily be in writing.

10. Therefore, even oral communication informing the accused of his right under Section 50 of the NDPS Act would constitute sufficient



compliance. In the case in hand, though the written notice was in Tamil and the petitioner may not have understood the same, the statement of the Searching Officer that the petitioner was informed of his right under Section 50 of the NDPS Act through one Aasik, in a language known to the petitioner, would, for the limited purpose of considering the present bail petition, amount to substantial compliance with Section 50 of the NDPS Act. Therefore, the contention that there has been non-compliance with Section 50 of the NDPS Act is liable to be rejected.

11. Coming to the contention regarding separate recovery and the absence of material to establish conspiracy, according to the prosecution, all the three accused were intercepted at the same place and, during the search, 8 kgs of Ganja was recovered from A1, another 8 kgs from the present petitioner and 6 kgs from A3. No doubt, the recovery was effected under separate mahazars. At this juncture, the learned Government Advocate (Crl.Side) invited the attention of this Court to Section 35 of the NDPS Act and would submit that, once the respondent police have *prima facie* established that all the accused were found together at the time of recovery, the statutory presumption under Section 35 would stand attracted and it is for the petitioner to rebut the same.



WEB COPY

12. It is also relevant to refer to the judgment of the Hon'ble Supreme Court in ***Gorakh Nath v. State of Bihar***, reported in (2018) 2 SCC 305, wherein it has been held that the reverse burden under Section 35 of the NDPS Act does not confer any licence upon the prosecution to merely register a First Information Report and expect the accused to prove his innocence. The Hon'ble Supreme Court has categorically held that the prosecution must first establish a *prima facie* case before the statutory presumption can be invoked.

13. In the case in hand, according to the prosecution, all the three accused were intercepted simultaneously and were found together at the time of search and seizure. This Court is of the firm view that their joint presence *prima facie* establishes a meeting of minds between them. Therefore, as rightly contended by the learned Government Advocate (Crl.Side), the quantity recovered from all the accused is liable to be aggregated with the quantity recovered from the present petitioner. If so aggregated, the total quantity would constitute a commercial quantity. Having already held that the contention regarding non-compliance with Section 50 of the NDPS Act does not enure to the benefit of the petitioner, this Court does not find any merit in the present bail petition.



WEB COPY

14. Though the learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in *Amar Singh Ramjibhai Barot* (cited supra), the said decision is clearly distinguishable on facts. In the present case, the joint presence of all the accused at the place of occurrence *prima facie* establishes a meeting of minds. Therefore, the said judgment is not applicable to the facts of the present case.

15. Accordingly, this Criminal Original Petition is dismissed.

16.07.2026

kv

To

1.The II Additional Special Judge NDPS Act, Chennai.

2. The Inspector of Police,
PEW Ambattur,
Chennai.

3.The Public Prosecutor, High Court of Madras.



WEB COPY

Crl.O.P.No.12542 of 2026



C.KUMARAPPAN.J.

kv

Crl.O.P.No.12542 of 2026

16.07.2026