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CRL OP No. 16893 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2026

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

CRL OP Nos. 16893 & 17358 of 2026

Eashwar

.. Petitioner in
Crl.OP.No.16893 of 2026

Gandhimathi

..Petitioner in
Crl.OP.No.17358 of 2026

Vs

State rep by
The Inspector of Police
p-1 Pulianthope Police Station
Chennai
(Cr.No.55 of 2026)Chennai

..Respondent
in both Crl.OPs.

Common Prayer: Criminal Original Petitions filed under section 483 of BNSS, 2023 to enlarge the petitioners on bail in connection with Crime No.55 of 2026 on the file of the respondent police.

For Petitioner(s): R.Prabakar
(in Crl.OP.No.16893 of 2026)

Mr.S.Kasirajan
for Mr.P.Santhosh
(in Crl.OP.No.17358 of 2026)

For Respondent(s): Mr.S.Yogaraja Sekar,
Counsel for Government of Tamil Nadu
(Criminal Side)
(in both Crl.OPs.)



COMMON ORDER

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The Petitioners/A4 was arrested and remanded to judicial custody on 20.02.2026 for the alleged offences under Sections 8 (c) r/w 20 (b) (ii) (B) and 29(1) of NDPS Act, @ 8(c) r/w 20(ii)(C), and 29(1) of NDPS Act, 1985 in Crime No.55 of 2026 on the file of the respondent police, seeks bail.

The Petitioners/A8 was arrested and remanded to judicial custody on 26.02.2026 for the alleged offences under Sections 8 (c) r/w 20 (b) (ii) (B) and 29(1) of NDPS Act, 1985 @ 8(c) r/w 20(ii)(C), and 29(1) of NDPS Act, 1985 in Crime No.55 of 2026 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner, along with other accused was found in illegal possession of 21.500 kilograms of ganja. Based on the confession statement of A1, the present petitioners have been arrayed as accused. According to the prosecution, the entire recovery is from A1 and A2.

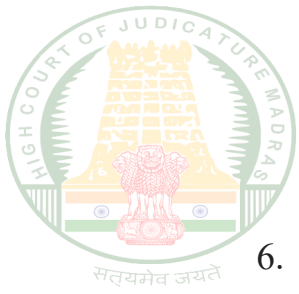
3. The learned counsel for the petitioner submitted that the petitioners are Easwaran/A4 and Gandhimathi/A8. He further submitted that the total recovery in the present case is 21.500 kgs of ganja involving nine accused. According to the prosecution, the entire recovery was effected only from A1 and A2, and



no contraband was recovered from the present petitioners. He further submitted that the petitioners have been implicated solely on the basis of the confession statements of the arrested accused. He further submitted that the petitioner Gandhimathi/A8 is suffering from certain medical ailments. He further submitted that the co-accused A5 and A6 have already been released on bail in Crl.OP.No.12111 of 2026 dated 18.06.2026. On the ground of parity, he prayed for the grant of bail to the petitioners.

4. Per contra, the learned Government Advocate (Crl.Side) submitted that all the accused are family members and were jointly engaged in the illegal trade of ganja. He further submitted that the total recovery of 21.500 kgs of ganja, which is a commercial quantity, was procured pursuant to the orders placed by the petitioners for the purpose of retail sale. Though no contraband was recovered from the petitioners, there are sufficient materials to establish their conscious possession through the recovery effected from A1 and A2. He further submitted that Gandhimathi/A8, has 11 previous cases, out of which, 5 cases are pending and one case is ended in acquittal. The fourth petitioner/ Eashwar, has one previous and the same is pending for trial. Hence, he strongly opposed the grant of bail to the petitioners.

5. I have given my anxious consideration to the submissions made by the learned counsel on either side and perused the materials available on record.



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6. Admittedly, no contraband was recovered from the petitioners. Even according to the prosecution, the petitioners have been implicated only based on the confession statements of the arrested accused. As per the prosecution, the allegation against the petitioners is that they used to procure the small quantities of contraband from A1 and A2 and sell the same in the retail market. Except for the said confession statement, there are no independent materials to connect the petitioners with the conscious possession of 21.500 kgs of ganja recovered from A1 and A2. It was also brought to the notice of this Court that the co-accused, from whom no recovery was effected, have already been enlarged on bail.

7. The learned Government Advocate (Crl.Side), however, submitted that Gandhimathi/A8 has 11 previous cases and played a significant role in the alleged offence. On the other hand, the learned counsel for the petitioners produced the medical records of A8 and submitted that she is suffering from a carotid artery aneurysm and has undergone treatment for the same. It was further submitted that Gandhimathi/A8 had voluntarily surrendered before the Court on 26.02.2026.

8. Considering the totality of the circumstances of the case, this Court finds that no recovery has been effected from either of the petitioners and that



they have been implicated only based on the confession statements of the arrested accused. In the absence of any independent material connecting the petitioners with the contraband recovered from A1 and A2, this Court is of the prima facie view that the petitioners have overcome the rigorous under Section 37 of NDPS Act, as per the ratio laid down by the Hon'ble Supreme Court in *Tofan Singh Vs. State of Tamil Nadu* reported in *2021 (4) SCC 1*. Further, the co-accused against whom no recovery was effected, have already been enlarged on bail in Crl.OP.No.12111 of 2026, by order dated 08.06.2026. Considering the principle of parity, the absence of recovery from the petitioners, and the medical condition of Gandhimathi/A8, this Court is inclined to enlarge the petitioners on bail, subject to certain conditions.

9. Accordingly, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned **Principal Special Court under EC & NDPS Court Court, Chennai** and subject to the following conditions:

[a] the sureties shall affix their photographs and Left Thumb Impression in the Application for Surety ship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Magistrate shall obtain a copy of any one of the identity proofs to ensure their identity;

[b] the petitioners shall report before the respondent



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daily at 10.30 a.m. until further orders;

[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner shall not tamper with the evidence or witness either during investigation or trial;

[e] on breach of any of the aforementioned conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions had been imposed and the petitioner released on bail by the learned Magistrate/Trial Court itself, as laid down by the Hon'ble Supreme Court in *P.K.Shaji vs. State of Kerala [(2005)13 SCC 283]*;

[f] if the petitioner thereafter abscond, a fresh FIR may be registered under Section 269 of the Bharatiya Nyaya Sanhita, 2023.

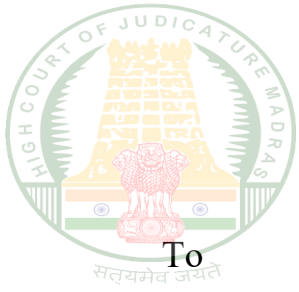
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DRL

Note:

1. Registry is directed to forthwith upload this order in the Official Website of this Court.

2. All concerned to act on this order being uploaded in Official Website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in the official website of this Court will be watermarked and will also have a QR code.



To

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1. The Principal Special Court under
EC & NDPS Court, Chennai.

2. The Inspector of Police
p-1 Pulianthope Police Station
Chennai.

3. The Superintendent,
Special Prison for Women,
Puzhal, Chennai.

4. The Superintendent,
Central Prison, Puzhal.

5. The Public Prosecutor,
High Court, Madras.



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C.KUMARAPPAN, J.

DRL

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