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CRL OP No. 18778 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-07-2026

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

CRL OP No. 18778 of 2026

Mohammed Mohaideen @ Machan

..Petitioner

Vs

The State represented by
The Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit, Chennai.

..Respondent

PRAYER : Criminal Original Petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, to enlarge the petitioner on bail in C.C.No.256 of 2021 pending on the file of the Court of the Special Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai.

For Petitioner:

Mr.P.Muthamizhselvakumar

For Respondent:

Mr.A.Kumaraguru,
Special Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 12.04.2021 for the alleged offences under Sections 8(c) r/w. 20(b)(ii)(C), 23(c), 28 and 29 of the Narcotic Drugs Psychotropic Substances Act, 1985, in C.C.No.256 of 2021 pending on the file of the Court of the Special Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai, seeks bail.



2. The case of the prosecution is that on specific information, the NCB officers seized 3 kg of a dark brown substance, believed to be hashish, at the Departure Hall check-in area of the Kamarajar Domestic Terminal, Chennai Airport.

3. The learned counsel appearing for the petitioner submitted that the occurrence took place on 10.04.2021, resulting in the recovery of 3 kg of Hashish from A1. Based on a confession statement, A2/petitioner and A3 were subsequently implicated. The petitioner has been arrayed as A2 and was remanded to judicial custody on 12.04.2021. It is the contention of the learned counsel for the petitioner that another co-accused, Mr. Mohamed Jabir @ Jafar, was arrayed as A3 as like this petitioner on the basis of confession statement, and that as against A2 and A3, no recovery was effected. A3 was granted bail by the Hon'ble Supreme Court in SLP (Crl.) No. 4895 of 2026. Hence, the learned counsel for the petitioner seeks parity with the co-accused, A3.

4. Though the learned Government Advocate (Crl.Side) appearing for the respondent opposed the application, fairly submitted that A2 and A3 stand on the same footing, as they were arrested only based upon the confession statement of A1 and no recovery was effected from either A2 or A3.



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

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6. Considering the submissions of the learned counsel on both sides, it is observed that the petitioner/A2 and co-accused A3 were implicated only based on a confession statement of A1 and no recovery was effected from either of them. Admittedly, the co-accused A3 preferred a bail application before the Hon'ble Supreme Court in SLP (Crl.) No. 4895 of 2026 dated 07.01.2026 and the Hon'ble Supreme Court has enlarged him on bail with the following observations:

“(i) Against an order of rejection of regular bail by the High Court and to seek bail, the present special leave petition has been filed. The petitioner is in custody from 18.04.2021 in connection with NCBF No.48/1/04/2021/ NCB/MDS dated 05.10.2021, for the offences punishable under Sections 8(c) r/w. 20(b) (ii) (c), 23(c), 28 and 29 of the NDPS Act, 1985, registered with Narcotics Control Bureau Chennai Zonal unit Chennai.

(ii) After hearing learned counsel for the petitioner, we find that the period of custody is more than five years. It is true that an application filed by the petitioner for recall of witnesses is permitted by the Court. However, once such application has been allowed by the Court, this cannot be taken against the petitioner for causing delay. In any case looking to the period of custody at present, without expressing any opinion on the merits of the case, we deem it appropriate to release the petitioner on bail.

(iii) Accordingly, we direct to release the petitioner on bail on furnishing the suitable bail bonds and sureties and on such other terms and conditions as may be deemed fit by the trial Court.

(iv) The Court below shall expedite the trial and conclude the same within a period of six months. Petitioner is directed to abide all the conditions as imposed. Further



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he is directed to cooperate in the trial and shall regularly appear on the dates fixed during the trial. In case, the petitioner does not appear on the date (s) fixed and causes a delay then Trial Court is at liberty to pass appropriate orders for cancellation of bail.

(v) Accordingly, and in view of the foregoing, the special leave petition stands allowed. Pending application(s), if any, shall stand disposed of."

7. In such circumstances, as rightly contended by the learned counsel for the petitioner, though the case involves a commercial quantity, since A3 has already been granted bail, parity ought to be extended to the present petitioner as he also stands on the same footing. Hence, this Court is inclined to enlarge the petitioner on bail, subject to certain conditions:

8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty-Five Thousand only), with two sureties for a like sum each to the satisfaction of the **learned II Additional Special Judge under NDPS Act Cases, 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 petitioner is directed to cooperate in the trial and shall regularly appear on the dates fixed during the trial.



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[c] the petitioner shall surrender his passport before the Investigating Officer forthwith and shall not leave the country without obtaining prior permission from the jurisdictional Trial Court. In the event the petitioner is not in possession of a passport, he shall file an affidavit before the Trial Court to that effect.

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

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

[f] 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]*;

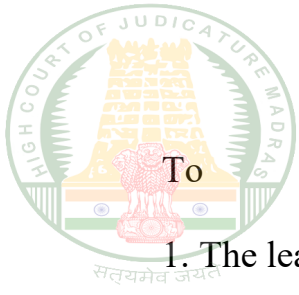
[g] if the petitioner thereafter abscond, a fresh FIR may be registered under Section 269 of the Bharatiya Nyaya Sanhita, 2023.

30-07-2026

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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

1. The learned II Additional Special Judge under NDPS Act Cases, Chennai.

2. The Central Prison, Puzhal II.

3. The Intelligence Officer, Narcotics Control Bureau,
Chennai Zonal Unit, Chennai.

4. The Public Prosecutor, High Court of Madras.

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CRL OP No. 18778 of 2



C.KUMARAPPAN, J.

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CRL OP No. 18778 of 2026

30-07-2026