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CRL OP No. 19880 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-08-2026

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

CRL OP No. 19880 of 2026

Vudi Sathi Babu

..Petitioner

Vs

The State Represented by,
The Inspector of Police,
T-14, Pallikaranai Police Station,
Chennai. Crime No.13 of 2025.

..Respondent

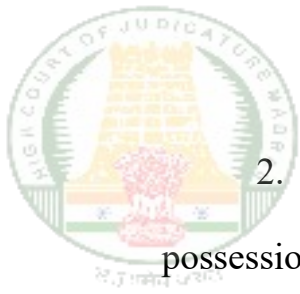
PRAYER : Criminal Original Petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, to enlarge the Petitioner on bail in C.C.No.498 of 2025 on the file of the II-Additional Special Judge for Exclusive Trial of NDPS & EC Act Cases at Chennai.

For Petitioner: Mr.Nirmal Kumar Sharma A

For Respondent: Mr.S.Yogaraja Sekar
Counsel for Government of Tamilnadu
(Criminal Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 09.01.2025 for the alleged offences under Sections 8(c) r/w 20(b)(ii)(C) of the Narcotic Drugs Psychotropic Substances Act, 1985, in Crime No.13 of 2025 on the file of the respondent police, seeks bail.



2. The case of the prosecution is that the petitioner was found in possession of 22 kgs of Ganja. Hence the case.

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3. The learned counsel appearing for the petitioner would submit that, at the time of taking the samples, Section 52A of the Narcotic Drugs Psychotropic Substances Act (NDPS), 1985 has not been complied with. It is his further submission that the respondent police have not followed the procedure prescribed under the Rules framed in furtherance of Section 52A of the NDPS Act while drawing and forwarding the samples. The learned counsel would further contend that the petitioner was not properly served with the grounds of arrest. Apart from the above two grounds, the learned counsel raised yet another defence that the initial information was received by a Trainee Sub-Inspector, who is not a Gazetted Officer as contemplated under the NDPS Act. Hence, according to the learned counsel, these procedural lapses create a reasonable doubt about the prosecution case and are sufficient to overcome the rigour under Section 37 of the NDPS Act.

4. Per contra, the learned Government Advocate (Crl.Side) strongly opposed the bail application and submitted that any deviation, if at all, in complying with Section 52A while drawing samples would not vitiate the prosecution. At the most, such deviation would amount only to an irregularity and not an illegality. In support of the said contention, the learned Government



Advocate relied upon the judgment of the Hon'ble Supreme Court in *Narcotics Control Bureau Vs. Kashif reported in (2024) 11 SCC 372*, wherein the Apex Court has settled the legal position that violation of the Rules framed in furtherance of Section 52A would not, by itself, invalidate the prosecution.

5. With regard to the contention relating to the grounds of arrest, the learned Government Advocate (Crl.Side) submitted that the petitioner was arrested and remanded to judicial custody on 09.01.2025, which was prior to the judgment of the Hon'ble Supreme Court in *Mihir Rajesh Shah vs. State of Maharashtra reported in (2026) 1 SCC 500*, wherein it has been held that the said principle would apply only to arrests effected subsequent to 07.11.2025. It is further submitted that, in the present case, the petitioner had in fact been furnished with the grounds of arrest. Insofar as the third contention is concerned, namely that the information was initially received by a Trainee Sub-Inspector, the learned Government Advocate (Crl.Side) submitted that the said officer immediately communicated the information to the Inspector of Police and only thereafter the Inspector proceeded in accordance with law. Therefore, if at all the petitioner has any grievance regarding the said procedure, the same can only be agitated during the course of trial and cannot be a ground for grant of bail.



6. I have given my anxious consideration to the rival submissions made on either side.

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7. The principal contention of the learned counsel for the petitioner relates to the alleged non-compliance of Section 52A of the NDPS Act. Section 52A deals with the disposal of seized narcotic drugs and psychotropic substances. It is the specific case of the petitioner that the respondent police have not followed the procedure prescribed under the Rules framed in furtherance of Section 52A while drawing and forwarding the samples. In this regard, the learned Government Advocate (Crl.Side) has rightly relied upon the judgment of the Hon'ble Supreme Court in *Narcotics Control Bureau Vs. Kashif*, wherein, after elaborately considering the entire scheme and object of the NDPS Act, the Apex Court has held that any violation of the Rules framed in furtherance of Section 52A would amount only to an irregularity and not an illegality. Therefore, this Court is of the considered view that the contention raised by the petitioner regarding Section 52A can be effectively adjudicated only during the course of trial and cannot be a ground to grant bail at this stage.

8. Coming to the second contention relating to the grounds of arrest, admittedly, the petitioner was remanded to judicial custody on 09.01.2025, well prior to the judgment of the Hon'ble Supreme Court in *Mihir Rajesh Shah*. Therefore, the benefit from the said judgment cannot be extended to the



petitioner in the facts of the present case. Moreover, the respondent has specifically stated that the grounds of arrest had already been furnished to the petitioner.

9. The final contention of the petitioner is with regard to the information having initially been received by a Trainee Sub-Inspector. As rightly submitted by the learned Government Advocate (Crl.Side), the said information was immediately communicated to the Inspector of Police and only thereafter further proceedings were initiated. Therefore, even assuming that there is any procedural irregularity, the same cannot be construed as one vitiating the entire prosecution. Such issues are matters for appreciation during trial. In such view of the matter, this Court could not find any material placed by the petitioner to overcome the rigour under Section 37 of the NDPS Act, particularly when the contraband involved is of commercial quantity.

10. Accordingly, this Criminal Original Petition is dismissed.

06-08-2026

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To

1. The Inspector of Police, T-14, Pallikaranai Police Station, Chennai.
2. The Public Prosecutor, High Court of Madras.



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C.KUMARAPPAN, J.

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