

Crl.OP(MD).No.5310 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 19.06.2026

ORDER PRONOUNCED ON : 08.07.2026
CORAM

THE HONOURABLE MR JUSTICE R.VIJAYAKUMAR

Crl.OP(MD).No. 5310 of 2025

Alex Midhin Tom

....Petitioner/Accused No.4

Vs

1.State of Tamil Nadu Rep.by
The Deputy Superintendent of Police
NIB CID Madurai
Madurai

....1st Respondent/Respondent

2.The Inspector of Police
Madurai Police Station
NIB-CID Madurai
Crime No.4 of 2024

....2nd Respondent/Complainant

Prayer:The Criminal Original Petition filed under Section 482 of Cr.P.C. to set aside the order dated 16.11.2024 passed in Crl.M.P.No.3537 of 2024 on the file of the Principal Special Court for EC & NDPS Act Cases, Madurai and allow the above criminal original petition.

For Petitioner : Mr.S.Kasirajan

For Respondents : Mr.P.Samuel Gunasingh
Government Advocate (Crl.side)



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ORDER

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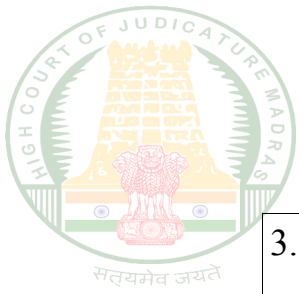
The present petition has been filed by the 4th accused in Crime No.4 of 2024 on the file of the second respondent police seeking to set aside the order passed by the Principal Special Court for EC and NDPS Act cases, Madurai wherein an application filed by the second respondent herein under Section 36-A(4) of NDPS Act has been allowed granting two months extension for filing of the charge sheet.

(A).Factual Matrix:

2.An F.I.R was registered in Crime No.4 of 2024 on the file of the second respondent on 22.02.2024 for the alleged offences under Sections 8(c), 22(c), 25 and 29(1) of Narcotic Drugs & Psychotropic Substances Act, 1985 against A1 to A3. On the confession of A3, the petitioner was added as 4th accused and he was arrested and remanded to judicial custody on 29.02.2024.

3.The dates which are relevant for disposal of the present case are as follows:

Sl.No	Date	Particulars
1.	29.02.2024	The petitioner was arrested and remanded to Judicial Custody.
2.	27.08.2024	180 days expired.



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3.	20.08.2024	Crl.M.P.No.2273 of 2024 was allowed by the trial Court granting three months time to complete the investigation.
4.	07.11.2025	Second extension in Crl.M.P.No.3537 of 2024 filed by the investigation agency.
5.	20.11.2024	First extension period expired.
6.	16.11.2024	The impugned order passed in the second extension petition granting two months time.
7.	10.12.2024	Default bail application filed by the accused.
8.	17.12.2024	The default fault bail application returned on the ground that the second extension application already allowed.
9.	16.01.2025	Second extension period expired.
10.	18.01.2025	Charge sheet filed.
11.	20.01.2025	The charge sheet was taken on file in C.C.No. 47 of 2025.
12.	12.03.2025	Crl.O.P(MD).No.5310 of 2025 filed challenging the order dated 16.11.2024 in Crl.M.P.No.3537 of 2024.

(B).Submissions of the learned counsels appearing on either side:

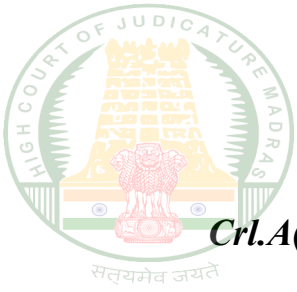
4.According to the learned counsel appearing for the petitioner, the twin condition required for granting extension of time for filing of the charge sheet namely the stage of investigation and the reasons for continuation of detention of accused person have not been stated in the report of the Public Prosecutor in Crl.M.P.No.3537 of 2024. In such circumstances, the trial Court ought not to have allowed the application filed under Section 36(A)(4) of NDPS Act for extension of time to the investigating agency to file a charge sheet.



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5.The learned counsel for the petitioner had further submitted that when the second order granting extension is in violation of the order passed by the Hon'ble Supreme Court, the same has to be set aside. If that order is set aside, the default bail application that was filed on 10.12.2024 by the petitioner herein would get revived. On 10.12.2024, the charge sheet was not filed. In fact, the charge sheet was filed only after expiry of the time granted in the second extension petition. In such circumstances, the petitioner is entitled to statutory bail which was erroneously returned by the trial Judge citing the impugned order passed under Section 36(A)(4) of NDPS Act.

6.The learned counsel for the petitioner had relied upon the decisions of the Hon'ble Supreme Court reported in **(1994) 4 SCC 602** (*Hitendra Vishnu Thakur and others Vs.State of Maharashtra and others*); **(2009) 17 SCC 631** (*Sanjay Kumar Kedia Alias Sanjay Kedia Vs. Intelligence Officer, Narcotics Controal Bureau and another*); the Full Bench decision of Calcutta High Court reported in **2023 SCC Online Cal 313** (*Subhas Yadav Vs.State of West Bengal*); a decision of this Court in **Crl.R.C.No.2227 of 2024** (*Babu Vs.State Rep.by the Inspector of Police, T-1, Ambattur Police Station, Chennai*) dated 19.12.2024; the orders in **Crl.R.C.No.2088 of 2024** (*Suresh Babu Vs. State Rep.by the Inspector of Police, NIB CID, Chennai*) dated 10.12.2024; **Crl.R.C.No.924 of 2023** (*Ajith Vs. State Rep.by the Inspector of Police, E-9 Thazhambur Police Station, Chennai*) dated 22.06.2023;



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Crl.A(MD).No.461 of 2022 (Kannan Vs.State represented by its the Deputy

Superintendent of Police, Srivilliputtur, Virudhunagar District and others)

dated 02.08.2022 and the judgment of the Hon'ble Supreme Court reported in

2026 INSC 456 (Md.Ariz Hasnain @ Ariz Hasnain Vs.State of Jharkhand) in

support of his contention.

7.Per contra, the learned Government Advocate (Crl.side) appearing for the respondents submitted that the petitioner has not chosen to challenge the first extension order dated 20.08.2024 and therefore, he cannot challenge the second extension order on the same ground. He further submitted that the petitioner herein had filed a regular bail application after filing of the charge sheet and that application was dismissed by the trial Court and confirmed by the High Court. He further submitted that one of the bail orders passed by the High Court was challenged before the Hon'ble Supreme Court in ***Special Leave Petition (Criminal) No.5814 of 2026*** and the same was dismissed on 09.04.2026 with a direction to the trial Court to expedite the trial. It was further observed that if there is no progress in the trial, within one year time, the petitioner shall be at liberty to renew his prayer for bail before the jurisdictional Court.

8.According to the Government Advocate (Crl.side), the bail application filed by the petitioner was dismissed by this Court on 23.01.2026 and only thereafter, the present petition has been filed seeking to set aside the



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extension order.

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9.The learned Government Advocate (Crl.side) appearing for the respondents had further questioned the maintainability of the petition filed under Section 528 of Cr.P.C and contended that only a criminal revision would lie. In support of his contention, he had relied upon a decision of this Court in ***Crl.OP(MD).Nos.8224 and 8225 of 2024 (Parimala Doss @ Doss Vs.Union of India)*** dated 02.07.2024. He also relied upon a decision of the Hon'ble Supreme Court reported in ***(2023) 18 SCC 155 (Qamar Ghani Usmani Vs. State of Gujarat)*** and contended that after filing of the charge sheet, the order granting extension to complete the investigation cannot be challenged.

10.Heard the learned counsel appearing on either side and perused the material records.

(C).Discussion:

11.The first and foremost contention of the learned counsel appearing for the petitioner is that the second order of extension granted by the trial Court does not satisfy the conditions laid down by the Hon'ble Supreme Court. The said order has been passed on 16.11.2024 granting two months extension. Two months extension period had expired on 16.01.2025. The charge sheet was not filed even within the second extension period. The default bail application was filed on 10.12.2024 and it was returned by the



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trial Court on the ground that already extension order has been passed on 16.11.2024 granting two months time. When the extension order is set aside, according to him, the default bail application would get revived and the default bail should have been granted.

12.Per contra, the contentions of the learned Government Advocate (Crl.side) appearing for the respondents is that the charge sheet had been filed on 20.01.2025 and it has been taken on file in C.C.No.47 of 2025 on 10.02.2025 and thereafter, the present petition has been filed on 12.03.2025 challenging the extension order.

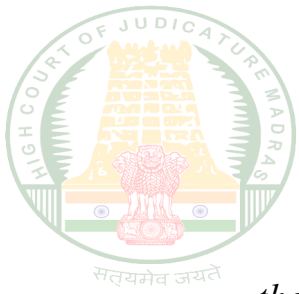
13.The following issues arise for consideration on the basis of the submissions made on either side.

14.The Hon'ble Supreme Court in a judgment reported in **(2009) 17 SCC 631 (Sanjay Kumar Kedia Alias Sanjay Kedia Vs. Intelligence Officer, Narcotics Control Bureau and another)** while considering Section 36A(4) of NDPS Act in Paragraph Nos. 12 and 18 has held as follows:

“12.The maximum period of 90 days fixed under Section 167 (2) of the Code has been increased to 180 days for several categories of offences under the Act but the proviso authorizes a yet further period of detention which may in total go upto one year, provided the stringent conditions provided therein are satisfied and are complied with. The conditions provided are:

(1) a report of the public prosecutor,

(2) which indicates the progress of the investigation, and



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(3) specifies the compelling reasons for seeking the detention of the accused beyond the period of 180 days, and (4) after notice to the accused.

18.A bare perusal of this application shows that it has been filed by the investigating officer of respondent No.1 and does not indicate even remotely any application of mind on the part of the public prosecutor. It further does not indicate the progress of the investigation, nor the compelling reasons which required an extension of custody beyond 180 days. This application was allowed by the Special Judge on 2nd August, 2007 i.e. on the day on which it was filed which also reveals that no notice had been issued to the accused and he was not even present in Court on that day.”

15.In view of the judgment of the Hon'ble Supreme Court cited supra, it is clear that all the conditions enumerated in Paragraph No.12 have to be satisfied by the trial Judge for allowing an application under Section 36A(4) of NDPS Act seeking extension for completion of the investigation and filing of the charge sheet.

16.The report of the Additional Public Prosecutor in Crl.MP.No.3537 of 2024 only discloses the progress in investigation and the reason for delay in completing the investigation. It does not point out the compelling reasons for seeking detention of the accused beyond the period of 180 days. The order impugned in the present petition also does not disclose any compelling reason



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for the continued detention of the accused person beyond a period of 180 days. In such circumstances, it is clear that the conditions enumerated by the Hon'ble Supreme Court in the judgment cited supra, have not been satisfied and therefore, the impugned order is liable to be set aside.

17.The learned Government Advocate (Crl.side) had relied upon a decision of the Hon'ble Supreme Court reported in **(2023) 18 SCC 155 (Qamar Ghani Usmani Vs.State of Gujarat)**, especially Paragraph Nos.23 and 24 and contended that even assuming that the condition enumerated by the Hon'ble Supreme Court in **Sanjay Kumar Kedia's case** have not been satisfied, the present application having been filed, after filing of the charge sheet is not maintainable.

18.A careful perusal of the judgment of the Hon'ble Supreme Court reported in **(2023) 18 SCC 155** reveals that the petitioner in the said case was arrested on 29.01.2022 and 90 days expired on 29.04.2022. The extension application was filed on 22.04.2022 and allowed on the same day. The default bail application was filed on 10.05.2022. The second extension petition was filed on 22.05.2022 and further time of 30 days was granted. Within the second extension period, the charge sheet was laid. The default bail application was dismissed on the ground that the charge sheet was laid within the extended period. The Hon'ble Supreme Court was pleased to confirm the order of dismissal of default bail on the ground that both the extension



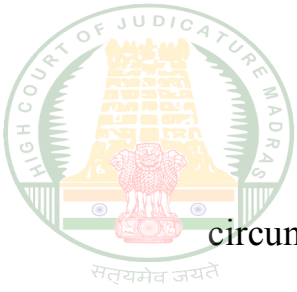
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applications have not been challenged and when the charge sheet has been filed within the extended period, the accused is not entitled to default bail.

However, in the present case, the second extension order has been put to challenge and this Court has arrived at a finding that the second extension application does not satisfy the conditions laid down by the Hon'ble Supreme Court in *Sanjay Kumar Kedia's case*. That apart, in the present case, the charge sheet has not been laid within the time granted in the second extension order. The time granted in the impugned second extension order (two months expired on 16.01.2025), the charge sheet has been laid only on 18.01.2025. The default bail application was filed on 10.12.2024 and it was returned citing the impugned extension order. Therefore, the judgment cited by the Government Advocate (Crl.side) is not applicable to the facts of the present case.

19.Once the impugned extension order dated 16.11.2024 is set aside, there is no extension order to the benefit to the prosecution after 20.11.2024, the charge sheet has been laid only on 18.01.2025. In the meantime, the accused had filed statutory bail petition on 10.12.2024 which has been returned citing the impugned extension order. Once the extension order is set aside, the default bail application gets revived.

20.It is to be noted that even within the time granted under the impugned second extension order, the charge sheet has not been laid. In such



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circumstances, it is clear that the default bail application gets revived and the Court has to mandatorily release the petitioner on statutory bail.

21.The learned Government Advocate (Crl.side) had further contended that the regular bail applications filed by the petitioner after filing of the charge sheet have been rejected on merits and the same has been confirmed by the Hon'ble Supreme Court and therefore, the present application seeking to set aside the extension order is not maintainable. This contention is liable to be rejected in the following grounds:

a)When the extension application filed under Section 36A(4) of NDPS Act has not satisfied the conditions laid down by the Hon'ble Supreme Court in *Sanjay Kumar Kedia's case*, the impugned extension order is not sustainable in the eye of law. In such circumstances, the statutory right of the petitioner cannot be taken away by citing the dismissal of regular bail applications.

b)Under the impugned extension order, time has been granted to the Investigating Agency to file their charge sheet within a period of two months, that is on or before 16.01.2025. Admittedly, the charge sheet has been laid beyond this date, namely on 18.01.2025. In such circumstances, the statutory bail ought to have been granted to the petitioner herein at least after 16.01.2025 and before 18.01.2025, especially when the statutory bail application was



pending before the Court.

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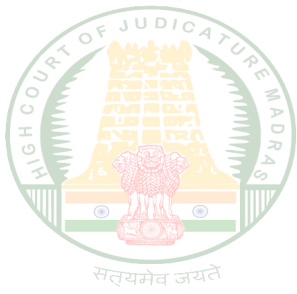
c)When the impugned extension order is set aside, the return order passed in the statutory bail application based upon the impugned extension order also falls to the ground.

d)In such view of the matter, the contention raised by the Government Advocate (Crl.side) opposing setting aside the impugned extension order citing dismissal of regular bail application is not legally sustainable, especially in the light of the fact that it is the statutory right of the petitioner.

22.As a consequence, the application filed by the petitioner which has been returned citing the impugned extension order, has to be taken on file and the petitioner has to be released on statutory bail. Since the petitioner has already exercised his rights to statutory bail, this Court is inclined to grant bail to the petitioner on the following conditions:

i. The petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties, each for a like sum, to the satisfaction of the learned Principal Special Court for EC & NDPS Act Cases, Madurai

ii. The petitioner and the sureties shall affix their photographs and left thumb impressions on the surety bond, and the Trial Court may obtain copies of their Aadhaar Cards or Bank Passbooks and mobile numbers to ensure their identity; and



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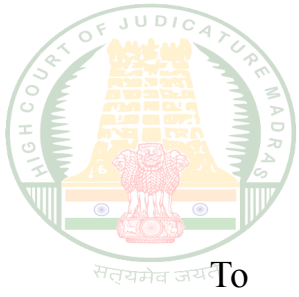
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iii. The petitioner shall appear before the Trial Court on the first working day of every month at 10:30 a.m. until further orders. If he is unable to appear before the Trial Court on any such day, he shall make arrangements to file an application under Section 317 of Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence, as directed by the Trial Court.

16. Accordingly, this Criminal Original Petition is allowed.

08.07.2026

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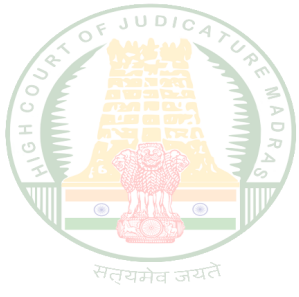
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1.The Principal Special Judge for EC & NDPS Act Cases,
Madurai

2.The Deputy Superintendent of Police
NIB CID Madurai
Madurai

3.The Inspector of Police
Madurai Police Station
NIB-CID Madurai
Crime No.4 of 2024

4.The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai



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R.VIJAYAKUMAR, J.

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