



Crl.OP(MD).No.16462 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 05.08.2026

ORDER PRONOUNCED ON : 11.08.2026

CORAM

THE HONOURABLE MR JUSTICE R.VIJAYAKUMAR

**Crl.O.P(MD).No.16462 of 2026
and Crl.MP(MD).No.15971 of 2026**

Thangapandi

...Petitioner/Accused No.3

Vs

State of Tamil Nadu Rep. by
The Inspector of Police
SS Colony Police Station
Crime No.625 of 2024

....Respondent /Complainant

Prayer:Petition is filed under Section 528 of BNSS, 2023, to call for the records relating to the impugned order dated 19.07.2026 passed in Crl.M.P.No.3140 of 2025 on the file of the Principal Special Judge for EC & NDPS Act Cases, Madurai and set aside the same as illegal and consequently direct the trial Court to split up the seizure alleged to have been made from the petitioner under the light of Section 223(d) of the Code of Criminal Procedure Code/Section 246(d) of Bharathiya Nagarik Suraksha Sanhita.

For Petitioner

: Mr.J.Selvam



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For Respondent

: Mr.P.Samuel Gunasingh
Government Advocate (Crl.side) for R1

ORDER

The present petition has been filed by the 3rd accused in C.C.No.121 of 2025 on the file of the Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, seeking to quash the charge sheet wherein the petitioner stands charged with offences punishable under Sections 8(c), 20(b)(ii)(c) and 29(1) of the NDPS Act.

(A).Factual Matrix:

2. The petitioner had preferred Crl.M.P.No.3140 of 2025 under Section 223(d) of the Cr.P.C., corresponding to Section 246(d) of the B.N.S.S., seeking a direction to split up the recovery of contraband effected from A1 and A2 from that effected from A3. The said application came to be dismissed by the impugned order dated 19.06.2026, and it is in challenge thereto that the present petition has been filed.

3. A perusal of the charge sheet reveals that the petitioner, along with four others, stands charged with offences under Sections 8(c), 20(b)(ii)(c) and 29(1) of the NDPS Act. It is seen that an F.I.R. in Crime No.621 of 2024 came to be registered on 23.09.2024 against the very same A1 to A3, in which case A3 was implicated upon the confession of A1 and A2. That case too was



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registered under the NDPS Act, 24 kilograms of contraband having been recovered therein. The said contraband had been despatched by courier from Andhra Pradesh under the label of wooden toys. While the accused Nos.1 and 2 came to be arrested, the accused No.3 absconded.

4. Two similar parcels were received at the same courier office on 25.09.2024, the particulars of the sender and the addressee being fictitious. Upon intimation being furnished to the police by the management of the courier office, the officials inspected the premises and, on opening the wooden box, seized two packages each weighing 12 kilograms, aggregating 24 kilograms of ganja. The addressee, the manner of packing and the place of origin being identical, A1 and A2 in Crime No.621 of 2024 came to be arrayed as A1 and A2 in Crime No.625 of 2024 also. The said recovery was effected at 3.00 p.m., and thereafter, at about 6.15 p.m., the petitioner/A3 came to be arrested, he being alleged to have been in possession of 1.200 kilograms of contraband.

(B) Submissions of both counsel:

5. In the above backdrop, the learned counsel for the petitioner had moved Crl.M.P.No.3140 of 2025 contending that the seizure effected under Section 102 of the Cr.P.C. at the courier office at about 3.00 p.m. on 25.09.2024 cannot be clubbed with the second seizure effected from the



petitioner at about 6.15 p.m. on the very same day. According to him, the two seizures bear no connection whatsoever with one another, and the police authorities are seeking to club them solely with a view to implicating the petitioner for possession of a commercial quantity of contraband.

6. He would submit that under Section 223(d) of the Cr.P.C., accused persons may be jointly charged only where the offences arise out of the same transaction. In the present case, no contraband was recovered from A3; the seizure of 24 kilograms was effected at the courier office under Section 102 of the Cr.P.C., whereas the second seizure of 1.200 kilograms is alleged to have been effected from the person of the petitioner. The two not forming part of the same transaction, the seizure at the courier office cannot be clubbed with that effected from the petitioner.

7. It is further urged that there exists no nexus whatsoever between the two seizures, no material having been placed on record connecting the seizure at the courier office with the seizure alleged against the petitioner, the recoveries being altogether distinct.

8. According to the petitioner, the seizure mahazar pertaining to the courier office would demonstrate that the parcels were seized at about 3.00 p.m. and the F.I.R. registered at 4.30 p.m., a report under Section 57 of the NDPS Act having likewise been addressed to the concerned authorities at



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4.30 p.m. The petitioner, however, came to be arrested only at 6.15 p.m. on the same day, when 1.200 kilograms of contraband is alleged to have been seized from him.

9. Reliance was placed upon the decision of the Kerala High Court reported in **1995 (3) Crimes (HC) 384 (State of Kerala vs. Wolfgang Konrad Fiener)** for the proposition that continuity of action is an essential test, and that two accused cannot be said to have committed an offence in the course of the same transaction in the absence of continuity of action and community of purpose. Reliance was further placed upon the decisions of this Court in **Crl.O.P.(MD)No.10251 of 2022 (Thulasi vs. State rep. by the Inspector of Police, Thoothukudi District)** dated 17.08.2022; **Crl.O.P.(MD)No.21309 of 2022 (Maria Alex Britto vs. State rep. by the Inspector of Police, Thoothukudi District)** dated 14.12.2022; and **Crl.O.P.(MD)No.11465 of 2025 (Rajendran vs. State of Tamil Nadu rep. by the Inspector of Police, Theni District)** dated 22.07.2026.

10. It is lastly contended that the petitioner has been roped into the present case merely by reason of his implication in Crime No.621 of 2024, unsupported by any confession of A1 and A2. He accordingly prayed that the impugned order be set aside and the trial Court directed to split up the seizure



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effected from the petitioner from that effected at the courier office.

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11. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent police submitted that the petitioner came to be implicated in Crime No.621 of 2024 upon the confession of A1 and A2, wherein a recovery of about 24 kilograms of contraband was effected. He would submit that the call detail records pertaining to A1 to A5 establish that they were in constant communication with one another in respect of both the first transaction, forming the subject matter of Crime No.621 of 2024, and the second, forming the subject matter of Crime No.625 of 2024. The 4th accused is their man engaged at Andhra Pradesh for the purpose of despatching the couriers therefrom, while A5 is the person who despatched the courier from that State. He would further submit that when the petitioner was arrested in Crime No.625 of 2024, he was found in possession of 1.200 kilograms of contraband, the packaging whereof was identical to that of the packages opened by the officials at the courier office on 25.09.2024, thereby indicating that the petitioner is part and parcel of the gang responsible for the distribution of contraband at Madurai.

12. The learned Government Advocate would further submit that the petitioner, by disputing any connection with the seizure of 24 kilograms at the courier office, is in effect seeking a discharge from the charge under Section



20(b)(ii)(c) of the NDPS Act relating to commercial quantity. Whether or not the petitioner is connected with the first seizure is purely a matter of evidence, capable of being established only at the trial. He accordingly prayed that the order of the trial Court be sustained.

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

(C) Discussion:

14. A perusal of the charge sheet reveals that two wooden boxes labelled as wooden toys were received at the courier office on 25.09.2024, despatched from Andhra Pradesh and addressed to one Viki at Madurai and one Sathuragiri of Sellur, Madurai, respectively. The courier office having already received a similar wooden box on 23.09.2024 which was found to contain contraband, its employees forthwith intimated the police. The officials made an entry in the general diary at about 1.40 p.m., reached the courier office at 2.30 p.m., and upon opening the boxes found 12 kilograms of ganja in each. The F.I.R. in Crime No.625 of 2024 came to be registered at 4.30 p.m., and a report was despatched to the superior officers under Section 57 of the NDPS Act.

15. On 23.09.2024, a similar wooden box had been opened by the police officials and found to contain contraband, upon which the F.I.R. in



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Crime No.621 of 2024 came to be registered, the present A1 and A2 being implicated therein and arrested on the very same day. In their confession statements in the said crime, one Thangapandi came to be implicated and arrayed as A3, though he could not be apprehended on that date. A similar wooden box having been received once again on 25.09.2024 from the same place of origin and addressed to the same person, the F.I.R. came to be registered against the very same A1 and A2. Entertaining a suspicion in respect of A3, the officials commenced a search for the present petitioner and arrested him at about 6.15 p.m., seizing 1.200 kilograms of contraband from him.

16. It is contended on behalf of the petitioner that the seizure effected at the courier office at about 3.00 p.m. cannot be clubbed with the seizure effected from him at about 6.15 p.m.; that the two do not form part of the same transaction; that the seizures are altogether distinct and bear no nexus; and that his implication in Crime No.621 of 2024 cannot by itself furnish a basis for implicating him in the present case, that too for a commercial quantity. Unless the seizure effected from the petitioner is shown to bear a nexus with the seizure at the courier office, the two cannot be clubbed so as to bring the petitioner within Section 20(b)(ii)(c) of the NDPS Act. He would accordingly contend that the seizures must be split up in their entirety and the



petitioner tried only in respect of the 1.200 kilograms of contraband seized from him.

17. The question that falls for consideration is whether the petitioner can be jointly charged along with A1 and A2 as contemplated under Section 246(d) of the B.N.S.S.

18. The seizure effected from the petitioner can be clubbed with that effected at the courier office only if the two offences are found to have been committed in the course of the same transaction, within the meaning of Section 246(d) of the B.N.S.S.

19. It is alleged that two wooden boxes containing 24 kilograms of contraband were seized at the courier office on 23.09.2024, upon which the F.I.R. in Crime No.621 of 2024 came to be registered, the present A1 to A3 being the accused therein. A similar box, from the same place of origin and bearing an identical label, was received at the same courier office on 25.09.2024. In both instances, the contents were found to bear the marking of a well-known confectionery brand. It is the case of the prosecution that when A3 was arrested in Crime No.625 of 2024, he was in possession of 1.200 kilograms of contraband in a similar package.

20. It is further seen from the charge sheet that records of monetary transfers and call detail records pertaining to A1 to A5 for the period from



May 2024 to July 2024 have been gathered by the officials, and that the contraband seized from the petitioner likewise bore the same confectionery marking. The call detail records, the images of the monetary transfers and the seizure mahazar pointing to the implication of A3 in the seizure of 24 kilograms at the courier office, the question whether the petitioner bears any connection therewith is one of evidence, to be determined at the trial.

21. As rightly pointed out by the learned Government Advocate (Criminal Side), segregation of the seizure effected from the petitioner from that effected at the courier office would have the effect of discharging him from the charge under Section 20(b)(ii)(c) of the NDPS Act relating to possession of a commercial quantity. The application, though styled as one under Section 246(d) of the B.N.S.S., is therefore nothing but a camouflage to secure a discharge from the said charge.

22. The Hon'ble Supreme Court in a judgment reported in **(2001) 4 SCC 350 (Mohan Baitha and others Vs. State of Bihar and another)** had an occasion to consider the meaning of expression “ same transaction” found in Section 220 of Cr.P.C. Paragraph No.4 of the said judgment is extracted as follows:

“4.....The expression "same transaction" from its very nature is incapable of an exact definition. It is not intended to be interpreted in any artificial or technical sense. Common sense and



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the ordinary use of language must decide whether on the facts of a particular case, it can be held to be in one transaction. It is not possible to enunciate any comprehensive formula of universal application for the purpose of determining whether two or more acts constitute the same transaction. But the circumstances of a given case indicating proximity of time, unity or proximity of place, continuity of action and community of purpose or design are the factors for deciding whether certain acts form parts of the same transaction or not. Therefore a series of acts whether are so connected together as to form the same transaction is purely a question of fact to be decided on the aforesaid criteria.....

23. The Hon'ble Supreme Court in the judgment cited supra has categorically held that a string of acts whether they are so connected to form the same transaction or not is purely a question of fact. In such circumstances, whether the seizure from the petitioner at 6.15 p.m and the seizure at the courier office at 3.00 p.m on 25.09.2024 form part of the same transaction or not, that factual question cannot be resolved in a proceeding of this nature. As rightly held by the trial Court in the impugned order, the factual issue must be decided at the trial upon the evidence adduced.

(D) Conclusion:

24. In view of the foregoing, no error or illegality is discernible in the order of the trial Court. Preserving the liberty of the petitioner to agitate the



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same contentions at the trial, this Criminal Original Petition stands dismissed, confirming the order of the trial Court. Consequently, the connected miscellaneous petition is closed.

11.08.2026.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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To

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

2.The Inspector of Police
SS Colony Police Station
Crime No.625 of 2024

3.The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai



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R.VIJAYAKUMAR, J.

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