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Crl.O.P.No.8786 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2025

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THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.8786 of 2025

Shankar Thashra Pawar,
S/o. Thashra Govind Pawar.

... Petitioner

Versus

Inspector of Police,
NIB CID, Kancheepuram.
(Crime No.7 of 2023)

... Respondent

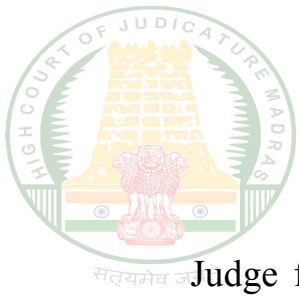
PRAYER: Criminal Original Petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, pleaded to enlarge the petitioner on bail in Crime C.C.No.837 of 2023 on the file of the II-Additional Special Judge for NDPS Act, Chennai.

For Petitioner : Mr. T.S. Sasi Kumar

For Respondent : M/s. J. R. Archana,
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 31.03.2023, seeking bail in C.C.No.837 of 2023 pending on the file of the II-Additional Special



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Judge for NDPS Act, Chennai, in Crime No.7 of 2023 registered for the offence under Sections 8(C) r/w 20(b)(ii)(C) and 25 of the Narcotic Drugs and Pyschotropic Substances, (NDPS) Act, 1985.

2. The case of the prosecution is that based on the secret information about the illegal transportation of ganja, the respondent police along with their team, went to the Elavur integrated checkpoint and, while conducting vehicle check-up, they intercepted the petitioner's vehicle. On search, the petitioner, along with other co-accused was found in possession of 80 kgs of ganja, which is a commercial quantity and the same was seized. Hence the case.

3. This is the fourth bail application before this Court. The earlier bail application in Crl.O.P.No.24999 of 2024 was dismissed on 13.02.2025 by the Hon'ble Mrs. Justice T.V.Thamilselvi, and this bail petition is listed before this Court pursuant to the orders passed by the Hon'ble Division Bench of this Court in Crl.O.P.No.31787 of 2024 on 04.03.2025.



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4. Learned counsel for the petitioner submitted that after dismissal of the earlier bail application in CrI.O.P.No.24999 of 2024 on 13.02.2025, charges have been framed and the trial has not yet commenced; and the petitioner's continuous incarceration is a violation of his right under Article 21 of the Constitution of India and sought for bail.

5. The learned Government Advocate (CrI.Side) opposed the grant of bail to the petitioner, and submitted that the trial has commenced; that the case is posted for examination of witness; that the trial would be concluded in the near future; and sought for dismissal of the petition. A detailed counter has also been filed in this regard.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (CrI. Side) appearing for the respondent Police and the materials available on record was perused.

7. In the earlier bail petition in CrI.O.P.No.24999 of 2024 dated 13.02.2025, this Court observed the following:-



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“5. Considering the facts and circumstances of the case and the submissions made by both counsel, considering the gravity of the offence committed by the petitioner by transporting 80 Kg of contraband, which is a commercial quantity and also the fact that investigation is still pending and now the trial court posted the case for framing of charges on 20.02.2025 and the fact that he is hailing from Maharashtra and at this stage, if he is released on bail, he may abscond, there is possibility of tampering the witnesses and hampering the investigation and the fact that there is no change of circumstances, this Court is not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.”

8. There is no change of circumstances since the dismissal of the previous bail application. The trial has now commenced. The petitioner who was found in possession of commercial quantity has not satisfied the twin conditions under Section 37 of the NDPS Act; and hence, this Court is not inclined to grant bail at this stage. However, the petitioner cannot be incarcerated indefinitely pending trial.

9. Hence, this Court is inclined to direct the learned trial Judge to conclude the trial as expeditiously as possible. If the trial is not concluded within six months, the petitioner is at liberty to renew his bail application. It



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is needless to say that if the delay is caused by the petitioner/accused, the petitioner would not be entitled to any relief.

10. With the above observations and directions, this Criminal Original Petition is disposed of.

01.04.2025

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To

1. The II-Additional Special Judge for NDPS Act, Chennai.
2. The Inspector of Police, NIB CID, Kancheepuram.
3. The Superintendent, Central Prison, Puzhal-I, Chennai.
4. The Public Prosecutor, High Court of Madras.

SUNDER MOHAN, J.



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