



WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2025

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRL.OP No. 30337 of 2024

S.Muthuvel

...Petitioner

Vs.

The State Rep. by
The Inspector of Police
N1 Royapuram Police Station,
Chennai.Crime No. 95 of 2023

...Respondent

PRAYER : This petition has been filed under Section 483 of BNSS, 2023, pleased to enlarge the petitioner/accused-1 on bail in CC No. 361 of 2023 pending before the II Additional Special Court for exclusive trial of cases under NDPS Act, Chennai.

For Petitioner : Mr.O.Chembulingam
For Respondent : Mr. V. Meganathan,
Government Advocate (Crl. side)

**ORDER**

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The petitioner, who was arrested and remanded to judicial custody on 02.04.2023 for the alleged offences punishable under Sections 8 (c) r/w 20 (b)(ii) (C), 25, 29(1) of NDPS Act 1985 in crime No. 95 of 2023 on the file of the respondent, seeks bail.

2. The case of the prosecution is that the respondent police found the accused persons with possession of 36 kgs of Ganja. Hence, the case.

3. The learned counsel for the petitioner submitted that the petitioner is ranked as A1 for near about 20 months petitioner is under the judicial custody. Further, he submitted that co-accused has been released on bail. Hence, he prayed to allow this petition.

4. The learned Government Advocate (Crl.side) raised objection to grant bail stating that the petitioner and the other accused were carrying 36 kgs of Ganja in white colour shift Car bearing registration No. TN11AW1545 from Andhra Pradesh. Further, he stated that the petitioner is having 16 previous cases including two 302 cases. Hence, he prays to dismiss this petition.



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5. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) for the respondent Police and perused the materials available on record, and taking note of the fact that the investigation is completed and the charge sheet has been filed and also taking into consideration the judgements of the Hon'ble Supreme Court in case of **Ankur Chaudhary vs. State of Madhya Pradesh**, wherein the **Hon'ble Supreme Court** held that “ it is to observe that failure to conclude the trial within a reasonable time resulting in prolonged incarceration militates against the precious fundamental right guaranteed under Article 21 of the Constitution of India, and as such, conditional liberty overriding the statutory embargo created under Section 37(1)(b) of the NDPS Act may, in such circumstances, be considered' and the dictum laid down in the case in **Rabi Prakash vs. State of Odisha reported in 2023 SCC Online SC1109** that “ The Prolonged incarceration, general militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b) of the NDPS Act. Considering the period of incarceration undergone by the petitioner and also the ratio laid down by the Apex Court in the above cases, this Court is inclined to grant



bail to the petitioner with the the following conditions.

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6. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** with **two sureties (one blood surety and one local surety)**, each for a like sum to the satisfaction of the **learned II Additional Special Court for Exclusive trial of cases under NDPS Act, Chennai**, and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[b] the petitioner shall report before the Trial Court daily at 10.30 a.m, for a period of four months and shall stay at Chennai and shall cooperate for Trial.

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

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

[e] On breach of any of the aforesaid conditions,



the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**;

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 269 of BNS.

23.01.2025

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To

1. The **II Additional Special Court for Exclusive trial of cases under NDPS Act, Chennai.**
2. The Inspector of Police
N1 Royapuram Police Station,
Chennai.
3. The Central Prison, Puzhal Chennai.
4. The Public Prosecutor,
High Court of Madras.

T.V.THAMILSELVI, J.

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