



WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2025

CORAM:

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

CRL.OP No. 2858 of 2025

Akash

...Petitioner

Vs.

The State Rep. by
The Inspector of Police
T-12, Poonamallee Police Station.
Crime No. 638 of 2024

...Respondent

PRAYER : This petition has been filed under Section 483 of BNSS, 2023, to enlarge the petitioner on Bail pending of the case in C.C No. 250 of 2024(Learned II Additional Special court for Exclusive Trial of Cases under NDPS Act, Chennai) connecting with crime No. 638 of 2023 on the file of the respondent police(T-12, Poonamallee Police station).

For Petitioner : Mr.M.Illiyas
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 11.10.2023 for the alleged offences punishable under Sections **8 (c) r/w 20(b)(ii)(c) and 29(1), 25 of NDPS Act in crime No. 638 of 2024** 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 3720 Nitrovet Tablets. Hence, the case.

3. The learned counsel for the petitioner submitted that the petitioner has been falsely implicated in this case as if he was in possession of the contraband and the petitioner is under the judicial custody for the past 15 months. Further, he stated that there is no previous against this petitioner. Hence, he prays to allow this petition.

4. The learned Government Advocate (Crl. side) submits that contraband seized from the petitioner is commercial quantity. Hence, he prays to dismiss this petition.



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 ratio laid down by the Apex Court in the above cases and also the period of incarceration undergone by the petitioner and also there is no previous case



against this petitioner. Hence, this Court is inclined to grant bail to the petitioner with the the following conditions.

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 of 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 respondent police daily at 10.30 a.m., apart from the Court hearing for a period of three months, failing which bail will be cancelled. Further, the petitioner shall deposit a sum of Rs.10,000/- to the credit of Sevalaya No.F-2, Pushkarani Apartment, 12 Ananda Road, Alwarpet, Chennai -600 018. Account Name : SEVALAYA A/C.No.218601000134 Bank : ICICI Bank Branch : Mylapore Chennai -600004 IFSC Code : ICIC0002186 Cell No.9941450444



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[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.

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T.V.THAMILSELVI, J.

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To

1. The **II Additional Special Court of exclusive trial of cases under NDPS Act, Chennai.**
2. The Inspector of Police
T-12, Poonamallee Police Station.
3. The Central Prison, Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.

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