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CRL O.P. Nos.541 & 556 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CRL O.P. Nos.541 & 556 of 2025

B.Lenin ... Petitioner in Crl.O.P.No.541 of 2025

1.Naresh Babu

2.R.Bharathi ... Petitioners in Crl.O.P.No.556 of 2025

Versus

State by,
The Inspector of Police,
T-11, Somangalam Police Station,
Chengalpattu District.
(Crime No.293 of 2024) ... Respondent in both the petitions

COMMON PRAYER: Criminal Original Petitions filed under Section 483 of B.N.S.S., praying to enlarge the petitioners on bail pending investigation in Crime No.293 of 2024 on the file of the respondent Police.

For Petitioners : Mr. M. Udhayakumar in
Crl.O.P.No.541 of 2025
Mr.R.Tamilarasan in
Crl.O.P.No.556 of 2025.



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For Respondent : Mr. Leonard Arul Joseph Selvam,
Government Advocate (Crl. Side).

COMMON ORDER

These Criminal Original Petitions have been filed by the petitioners, who were arrested and remanded to judicial custody on 13.11.2024, seeking bail in Crime No.293 of 2024 registered for the offence under Sections 8(c), 20(b)(ii)(c), 25 & 29(1) of the Narcotic Drugs & Psychotropic Substances Act 1985.

2.The case of the prosecution is that the respondent on secret information intercepted the car in which the petitioners travelled and found that they were in custody of 7 kgs of kanja each and thus in constructive possession of 21 kgs of kanja which is a commercial quantity.

3.The learned counsel for the petitioners would submit that the allegations are false; that the petitioners were not arrested in the manner alleged by the prosecution and no recovery was made from the petitioners as alleged; that the wife of the petitioner in Crl.O.P.No.541 of



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2025 had approached the Public Information Officer under the Right to Information Act to give details as to when the petitioners were arrested by Inspector of Police, Ponnerikarai Police Station and as to when they were handed over to Sankar Nagar Police Station; that the Public Information Officer on 05.12.2024 stated that the petitioners were arrested on 12.11.2024 at about 12.40 p.m., by the Sub-Inspector of Police, Ponnerikarai Police Station and thereafter, the petitioners were handed over to the Sankar Nagar Police Station; and that therefore, the allegation that the petitioners were arrested on 13.11.2024 at about 01.15 a.m., is false. In any case, further custody of the petitioners are not required for the purpose of investigation and submitted that hence, the petitioners may be released on bail.

4.Learned Government Advocate (Crl.Side) reiterated the case of the prosecution and further submitted that the petitioners were arrested in fact on the date and time mentioned in the FIR; and that the allegations made by the petitioners against the respondent police are unfounded and sought for dismissal of the bail application.



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5. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) for the respondent Police and perused the materials available on record.

6. This Court, in order to verify the contents of the reply sent by the Public Information Officer under the Right to Information Act, had called upon him to file an affidavit. Accordingly, the Public Information Officer had filed an affidavit stating that it is a fact that on 12.11.2024 at about 12.15 p.m., on the information received, the petitioners were intercepted and arrested by the Inspector of Police, Ponnerikarai Police Station at about 12.40 hrs and thereafter, on receipt of information, the Sub-Inspector of Police had handed over the petitioners along with the vehicle to the Sankar Nagar Police Station at about 13.00 hours.

7. At this juncture, the learned Government Advocate (Crl.Side) submitted that he would file the affidavits of Inspector of Police, Ponnerikarai Police Station and that of Sankar Nagar Police Station giving details of the time and date of arrest and as to why the Inspector of Police, Ponnerikarai Police Station handed over the custody of the



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petitioners to the Sankar Nagar Police Station. Hence, this matter was adjourned today. However, today no affidavit has been filed by either of the two Inspectors.

8.On perusal of the reply sent by the Public Information Officer under the Right to Information Act and his affidavit, this Court finds that the petitioners were arrested on 12.11.2024 at 12.40 hrs., and thereafter, handed over to Sankar Nagar Police Station on the same day at 13.00 hrs. It is not known as to why originally the petitioners were intercepted and as to why they had handed over the petitioners to Sub-Inspector of Police, Sankar Nagar Police Station. It is also not clear as to when the petitioners were released from Sankar Nagar Police Station. In the light of the above facts, this Court is of the view that the version of the petitioners that they were not arrested at the time and date mentioned by the prosecution is probable.

9.From the aforesaid facts and since there are no previous case against the petitioners; that this Court is of the view that the petitioners have satisfied the twin conditions as contemplated under Section 37 of



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the NDPS Act. Hence considering the period of incarceration; and since further custody is not required for the purpose of investigation, this Court is inclined to grant bail to the petitioners with certain conditions. However, it is made clear that the above observations are made for the purpose of bail and would not stand in the way of prosecution establishing the offence in the manner known to law before the trial Court.

10. Accordingly, the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Sriperumbudur.

[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 petitioners shall report before the respondent Police everyday at 10.30 a.m., until further orders;

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



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[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 absconds, a fresh FIR can be registered under Section 269 B.N.S.

19.02.2025

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To

1.The Public Prosecutor,
High Court of Madras,
Chennai.

2.The Inspector of Police,
T-11, Somangalam Police Station,
Chengalpattu District.



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3. The Judicial Magistrate,
Sriperumbudur.

4. The Central Prison,
Puzhal, Chennai.



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SUNDER MOHAN. J,

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