



Cr1.O.P.No.2092 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

CORAM

THE HON'BLE MR. JUSTICE SUNDER MOHAN

Cr1.O.P.No.2092 of 2025

Parath Kumar @ Barath Kumar @ Mattukari Barath ... Petitioner/A3

Vs.

The State Represented by its Inspector of Police
N2 Kasimedu Police Station
Chennai District.
(Crime No.112 of 2024)

... Respondent

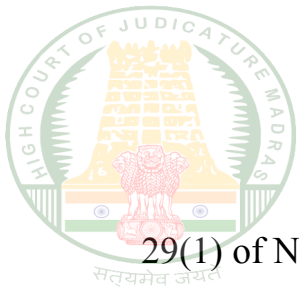
PRAYER: Criminal Original Petition filed under Section 483 of BNSS, to enlarge the petitioner on bail in C.C.No.700 of 2024 pending on the file of the I Additional District Judge and Presiding Officer, Principal Special Court under EC & NDPS Act, Chennai.

For Petitioner : Mr.Santhosh

For Respondent : Ms.J.R.Archana
Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 19.03.2024, seeking bail C.C.No.700 of 2024 pending on the file of the I Additional District Judge and Presiding Officer, Principal Special Court under EC & NDPS Act, Chennai in Crime No.112 of 2024 registered for the offence under Section 8(c) r/w.22(c),



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29(1) of NDPS Act, 1985.

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2.The case of the prosecution is that on 19.03.2024 based on a secret information with regard to illegal transportation of ganja, the respondent police conducted a search and the petitioner along with other accused found in possession of 1920 tablets of Nitrovet – 10 mg, illegally and seized the same.

3.This is the third bail application before this Court. The earlier bail application in CrI.OP.No.22869 of 2024 was dismissed on 26.09.2024 by 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 CrI.O.P.No.31787 of 2024 on 04.03.2025.

4.Learned counsel appearing for the petitioner submitted that this is the third bail application and the second bail application was dismissed as the petitioner had six previous cases on 26.09.2024, that subsequently the main accused who was found in possession of contraband was granted bail on the ground that he in continuous incarceration for a long time viz., from 19.03.2024 by relying upon the judgment of the Hon'ble Supreme Court in *Rabi Prakash Vs. The State of Odisha* reported in 2023 LiveLaw (SC) 533 and *Ankur Chaudhary Vs. The State of Madhya Pradesh* reported in 2024 SCC Online SC 2730 and sought for bail.

4.Learned Government Advocate (CrI.Side) appearing for the



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respondent police, while opposing for grant of bail to the petitioner, reiterated the prosecution case. He also submitted that the contraband was seized from A1, that petitioner has seven previous cases, in which two are under NDPS Act for possession of intermediate quantity and other cases for IPC offences.

5.The counter of the respondent reveals that the contraband was seized from A1. The petitioner is in custody from 19.03.2024. Though earlier bail application was dismissed on 26.09.2024, it is seen that the first accused was granted bail by this Court in Cr1.OP.No.27945 of 2024 dated 23.01.2025. The Hon'ble Supreme Court in *Rabi Prakash's case*, has held as follows:

“4...The prolonged incarceration, generally 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)(ii) of the NDPS Act.”

In *Ankur Chaudhary's case*, the Hon'ble Supreme Court has held as follows:

“6... 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, condition liberty overriding the statutory embargo created under Section 37(1)(b) of the NDPS Act may, in such circumstances, be considered.”



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6.Considering the nature of allegations, period of incarceration, the fact that co-accused was granted bail, and the aforesaid observations of the Hon'ble Supreme Court, this Court is inclined to grant bail to the petitioner with certain conditions.

7.Accordingly, the petitioner is ordered to be released on bail on his 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 Principal Special Court under EC & NDPS Act, Chennai, and on further conditions that:

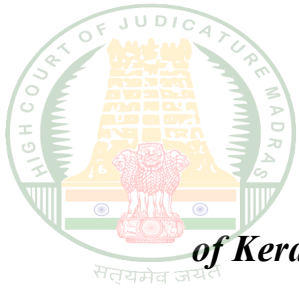
[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

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

[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***



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of Kerala [(2005)AIR SCW 5560];

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[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of B.N.S.

25.03.2025

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SUNDER MOHAN, J.

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To

1.The Principal Special Court under EC & NDPS Act,
Chennai

2.The Inspector of Police
N2 Kasimedu Police Station
Chennai District.

3.The Superintendent,
Central Prison, Puzhal, Chennai.

4.The Public Prosecutor,
High Court of Madras.

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