



Crl.O.P.Nos.4125 of 2025 & 31588 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.04.2025

PRONOUNCED ON : 08.04.2025

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THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.Nos.4125 of 2025 & 31588 of 2024

1. K.Sirajudeen ... Petitioner in Crl.OP.No.4125 of 2025 /A3
2. Sai @ Thiagarajan ... Petitioner in Crl.OP.No.31588 of 2024 /A2

Vs.

Union of India,
Rep. by the Intelligence Officer,
Directorate of Revenue Intelligence,
G.N.Chetty Road, T.Nagar,
Chennai – 600 017.
R.R.No.15 of 2020
[F.No.DRI/CZU/VIII/48
/ENQ-1/INT-06/2020] ... Respondent in all cases

COMMON PRAYER: Criminal Original Petitions filed under Section 483 of BNSS, pleaded to enlarge the petitioners/accused on bail, in C.C.No.103 of 2020 on the file of the learned Principal Special Judge for EC and NDPS Act Cases at Chennai in R.R.No.15 of 2020 (F.No.DRI/CZU/VIII/48/ENQ-1/INT-06/2020) on the file of the respondent police.

For Petitioner : Mr.S.Poongkundran
in both cases
For Respondent : Mr.N.P.Kumar



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in both cases

Special Government Pleader

COMMON ORDER

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These Criminal Original Petitions have been filed by the petitioners/A2 & A3, who were arrested and remanded to judicial custody on 13.03.2020 seeking bail in R.R.No.15 of 2020 [F.No.DRI/CZU/VIII/48/ENQ-1/INT-06/2020] registered for the offence under Sections 8(c) of NDPS Act, 1985 and Sections 22(c), 28 and 29 of the NDPS Act, 1985.

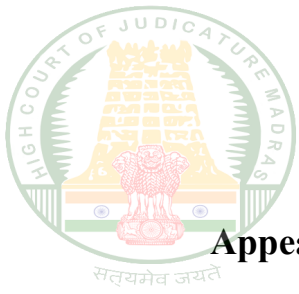
2. It is the case of the prosecution that the respondent received a secret information, that one R.Vadivel [A4] was involved in illicit manufacturing of Tramadol Tablets in huge quantity and sending it to A2-Sai @ Thiagarajan [petitioner in Crl.OP.No.31588 of 2024] through lorry transport, who in turn handed it over to A1-A.Faizal Raja ; that on 12.03.2020, a consignment sent by A4 was lying at M/s.Lakshmi Cargo Company, located at Pariwakkam, which was to be collected by A2; that the respondent proceeded to the said place and intercepted A2 and A3-K.Sirajudeen (petitioner in Crl.OP.No.4125 of 2025), who were completing the formalities for clearance of subject consignment; and that they were arrested and were in custody since then.



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WEB COPY 3. This is the 5th bail petition for both the petitioners. The earlier bail petition in respect of A3-K.Sirajudeen in Crl.OP.No.18940 of 2024 was dismissed by Hon'ble Mr.Justice A.D.Jagadish Chandira on 25.09.2024 and in respect of A2-Sai @ Thiyagarajan in Crl.OP.No.22154 of 2024, was dismissed by Hon'ble Mrs.Justice T.V.Thamilselvi on 18.10.2024. Though, the earlier bail petition of these petitioners were dismissed by Hon'ble Mr.Justice A.D.Jagadish Chandira and Hon'ble Mrs.Justice T.V.Thamilselvi, respectively, the present bail petitions are 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.

4. The learned counsel for the petitioners submitted that the co-accused [A4] was granted bail by this Court in Crl.OP.No.4967 of 2024; that considering the period of incarceration of the petitioners from 13.03.2020 and since they have no bad antecedents, prayed for bail. He also relied upon the judgments of the Hon'ble Supreme Court in ***Rabi Prakash vs. State of Odisha*** reported in **2023 SCC Online SC 1109** and ***Ankur Chaudhary vs. State of Madhya Pradesh*** in **Special Leave to**



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Appeal (Crl).No.4648 of 2024.

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5. The learned Special Public Prosecutor submitted that eight witnesses have been examined and the prosecution would dispense with the other witnesses and at the most examine three more witnesses; that the petitioners are delaying the trial and have not cross examined any of the witnesses; and that since the earlier bail applications were dismissed considering the seriousness of the offence, the petitioners are not entitled to bail. Learned Special Public Prosecutor also sought for a direction to the trial Court to dispose of the case at the earliest.

6. This Court has carefully considered the rival submissions and perused the available records.

7. The petitioners are in custody from 13.03.2020. The earlier petitions filed before this Court were dismissed considering the fact that the petitioners have not satisfied the twin conditions under Section 37 of the NDPS Act. Even now, this Court finds that the petitioners have not satisfied the twin conditions under Section 37 of the NDPS Act.



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8. Though, in the counter dated 26.02.2025, the respondents have stated that only two witnesses have been examined, it is seen from the submissions made by the learned Special Public Prosecutor that eight witnesses have been examined by the prosecution and some more witnesses need to be examined. Hence, this Court is of the view that the delay cannot be attributed to the petitioners alone for not cross examining the witnesses. It is seen from the order dated 29.10.2024 passed by this Court in respect of the co-accused in Crl.OP.No.4967 of 2024, the learned Judge had observed that as on 12.07.2024, seven witnesses had been examined. From 12.07.2024 till this date, it appears that only one more witness has been examined. In such circumstances, this Court is of the view that the petitioners cannot be detained for an indefinite period.

9. The Hon'ble Supreme Court in *Ankur Chaudhary vs. State of Madhya Pradesh* in Special Leave to Appeal (Crl).No.4648 of 2024, had held as follows:

“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



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statutory embargo created under Section 37(1)(b) of the NDPS Act may, in such circumstances, be considered”

10. Further, in ***Rabi Prakash vs. State of Odisha*** reported in **2023**

SCC Online SC 1109, the Hon'ble Supreme Court held as follows:

“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) of the NDPS Act.”

11. Considering the fact that the co-accused were granted bail, the period of incarceration of the petitioners and the aforesaid observations of the Hon'ble Supreme Court, this Court is of the view that further incarceration would violate the petitioner's right under Article 21 of the Constitution of India, and hence, is inclined to grant bail to the petitioners. The trial Court may however, expedite the trial.

12. 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)** each with **two sureties**, each for a like sum to the satisfaction of the learned **Principal Special Judge, Special Court under EC & NDPS Act, Chennai**, and on further conditions that:



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[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 daily at 10.30 a.m., until further orders;

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

[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.

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SUNDER MOHAN, J.
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To

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

2. The Intelligence Officer,
Directorate of Revenue Intelligence,
G.N.Chetty Road, T.Nagar,
Chennai – 600 017.

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

4. The Public Prosecutor,
High Court, Madras.

Pre-delivery common order in
Crl.O.P.Nos.4125 of 2025 & 31588 of 2024

08.04.2025