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Crl. O.P. Nos.2608 and 3793 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2025

CORAM

THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl. O.P. Nos.2608 and 3793 of 2025

Mohamed Masthan S/o. Sheik Dawood

... Petitioner / Accused - 1
[Crl. O.P. No.2608 of 2025]

Sadam Sharif S/o.Usman Sharif

... Petitioner/ Accused-2
[Crl. O.P. No.3793 of 2025]

Vs.

The State represented by:

The Inspector of Police,
N-3 Muthialpet Police Station,
Chennai.
(Crime No.233 of 2024).

... Respondent

COMMON PRAYER: Criminal Original Petitions filed under Section 483 of BNSS, pleaded to enlarge the petitioners on bail, in connection with the Crime No.233 of 2024, pending investigation on the file of the respondent Police.

For Petitioners : Mr. P. Sundara Rajan [both Crl.O.P.s]

For Respondent : Mr. Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)
[both Crl.O.P.s]

COMMON ORDER

This Criminal Original Petitions have been filed by the petitioners, who



Crl. O.P. Nos.2608 and 3793 of 2025

WEB COPY
were arrested and remanded to judicial custody on 30.10.2024 and 30.12.2024 respectively, seeking bail in Crime No.233 of 2024 registered for the offences under Sections 8(c) read with 22(c), 25 and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985.

2. The case of the prosecution is that on secret information, the respondent police found the petitioners A1 and A2 in possession of 50 grams of Methamphetamine, which is intermediate quantity; that their confession revealed that they purchased the contraband from A3 and A4, who were found in possession of 5 grams and 4 grams respectively; that total quantity of contraband seized from all the accused is 59 grams, which is the commercial quantity and thus, committed the aforesaid offences.

3. The learned counsel appearing for the petitioner submitted that the allegations against the petitioner are false; that this Court granted bail to A3 and A4; that considering the fact that seizure from them cannot be construed as joint possession with A1 and A2; that considering the contraband seized from them, A3 and A4 were released on bail; that considering the fact that the petitioners were in possession of intermediate quantity, i.e., 50 grams and taking into account



Crl. O.P. Nos.2608 and 3793 of 2025

the period of incarceration of the petitioners, they may be released on bail.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police, reiterated the prosecution case and on instructions, submitted that the 1st accused namely the petitioner in Crl. O.P. No.2608 of 2025 has 3 previous cases for possession of intermediate quantity of contraband under NDPS Act; that the 2nd accused has one previous case in Cr. No.344 of 2024 for the possession of small quantity.

5. It is seen that the petitioners were in joint possession of 50 grams of Methamphetamine, which is intermediate quantity. On the confession of co-accused, A3 and A4 were arrested and contraband was seized. Therefore, this Court, in the earlier application in Crl. O.P. No.3796 of 2025 filed by the co-accused A3, had held that the possession of 5 grams by A3, cannot be said to be joint possession with A1 and A2. The same principle would apply to the petitioners as well.

6. However, considering the fact that the 1st accused has 3 previous cases of similar nature, this Court is not inclined to consider the bail application filed by the petitioner/A1 at this stage.



Crl. O.P. Nos.2608 and 3793 of 2025

WEB COPY

7. As far as the petitioner/A2 is concerned, considering the aforesaid facts, considering the fact that he has one previous case for the possession of small quantity of contraband, period of incarceration of A2, and the nature of allegations against the petitioner/A2, this Court is of the view that further custody of the petitioner/A2 is not required for the purpose of investigation. Hence, this Court is inclined to grant bail to the petitioner/A2 alone, with certain conditions.

7. Accordingly, **Criminal Original Petition No.2608 of 2025 filed by the petitioner/A1 is dismissed and Criminal Original Petition No.3793 of 2025, filed by the petitioner/A2 is granted.** The petitioner/A2 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 **Principal Sessions Court for EC & NDPS Court at 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;



Crl. O.P. Nos.2608 and 3793 of 2025

WEB COPY

[b] the petitioner/A2 shall appear before the respondent Police Station daily at 10.30 a.m. until further orders;

[c] the petitioner/A2 shall not abscond either during investigation or trial;

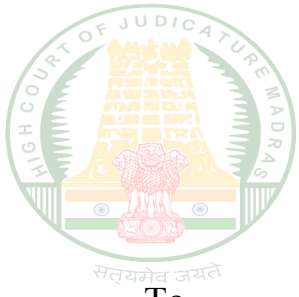
[d] the petitioner/A2 shall not tamper with evidence or witness either during investigation or trial;

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner/A2 in accordance with law as if the conditions have been imposed and the petitioner/A2 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.

13.03.2025

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Crl. O.P. Nos.2608 and 3793 of 2025

To
WEB COPY

1. The Principal Sessions Court for EC & NDPS Court at Chennai.
2. The Inspector of Police, N-3 Muthialpet Police Station, Chennai.
3. The Superintendent of Police, Central Prison, Puzhal, Chennai.
4. The Public Prosecutor, High Court of Madras.



WEB COPY



Crl. O.P. Nos.2608 and 3793 of 2025

SUNDER MOHAN., J.

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Crl. O.P. Nos.2608 and 3793 of 2025

13.03.2025