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CrI.O.P.No.2490 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :01.09.2025

Pronounced on :15.09.2025

CORAM

THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN

Criminal Original Petition No.2490 of 2025

Hyder, M/30,
S/o Hamsa, S/o Hamsa, Pulikkal,
S.R.K.Nagar, 19th Mile, Ottampalam 679 101,
Palakad District, Kerala
Present Address: Maruthi Residency,
Maruthi Nagar, Madivala,
Bangalore.

..Petitioner/Accused No.4

/versus/

The Union Territory,
Represented by
The Station House Officer,
'D' Nagar PS, Puducherry.

..Respondent

PRAYER : Criminal Original Petition filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023, to enlarge the petitioner on bail in Crime
No.138 of 2024 pending investigation on the file of the respondent.

For Petitioner	:Mr.R.C.Paul Kanagaraj
For Respondent	:Mr.K.S.Mohan Dass, P.P.(Pondy) Asst.by Mr.N.Danalatchumy



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ORDER

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The petitioner, who was arrested on 28.06.2024 and remanded to judicial custody on 29.06.2024 for the offences under Sections 20(b)(ii)(A), 21(c) r/w 8(c) of NDPS Act in Crime No.138 of 2024 on the file of the respondent police, seeks bail.

2. The petitioner herein is the 4th accused. He was found in possession of 1600 blots of LSD. Hence, he was arrested on 29.06.2024 in Crime No.138 of 2024 on the file of the Respondent police.

3. FIR in this case was initially registered on 28.06.2024 against two persons by name Sangeeth Kumar and Keerthivasan for the offences under Sections 20 (b) (ii)(A), 21(c) r/w 8(c) of NDPS Act, in connection with seizure of 200 grams of ganja leaves, 16 blots of multicoloured designed paper containing LSD from Sangeeth Kumar (A-1) and 26 small plastic box containing totally 180 grams of hashish oil (ganja oil) from Keerthivasan (A-2).



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4. On investigation, the prosecution came to know that A-1 and A-2 went to Bangalore and purchased the banned substances from the petitioner Hyder (A-4), through their old friend Suraj (A-3). They also informed that apart from Hyder and Suraj, one Mohammed Fasal also involved in supply of banned Narcotic Substance and they are all presently staying near Auroville. On identifying by A-1 and A-2, personal search of Hyder (A-4) and Mohammed Fasal (A-5) was conducted in the presence of the Superintendent of Police. From the search, 1600 blots of LSD from A-4 and 60 grams of Ocean Ganja from A-5 seized under mahazar. On further interrogation, A-4 had confessed about his involvement in supply of 26 bolts of LSD to A-1 and possession of 1600 blots of LSD for further supply to the peddles. His statement was in the nature of corroborating the statement of A-1. Further, A-4 had also informed about the involvement of other three accused by name Hamraz Aju (A-6) , Jerry (A-7) and Tahir (A-8) in the supply chain of the Narcotic and Psychotropic Substances.

5. The bail petition is filed on the ground that the petitioner was taken into custody illegally from his residence at Bangalore. The version of the prosecution that he was arrested near Auroville at Pondicherry is false.

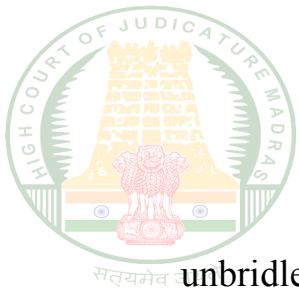


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No contraband was seized from him and even assuming 1600 blots of LSD seized from him, the seizure without following the mandatory requirement under Section 50 of the NDPS Act vitiates the alleged seizure. The two blots of LSD taken as sample for chemical analysis is not mixed and drawn from homogeneous lot as per the guidelines issued by the Government. The contradiction about compliance of Section 50 of NDPS Act and alleged seizure in the presence of Police Superintendent is *per se* illegal. The Contradiction and confusion about the substance seized found in the seizure mahazar and remand report expose the falsehood of the prosecution.

6.The Learned Counsel for the petitioner submitted that, as per the prosecution case, based on the information given by A-1, the Sub Inspector of Police and his team proceeded to Auroville from Gorimedu (JIPMER Hospital) and the petitioner A-4 and A-5 were apprehended on being identified by A-1. This information, which is specific in nature is not reduced into writing as required under Section 42 of the Act. As per the prosecution, A-4 and A-5 were informed about their right to be searched before a Judicial Magistrate or Superintendent of Police. This information of the right is not in consonance with Section 50 of the NDPS Act which contemplates the



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unbridled right to the accused persons to choose between a Judicial Magistrate or a Gazetted Officer. The prosecution cannot restrict the choice to opt any gazetted officer to Police Superintendent alone.

7.Further, the learned counsel appearing for the petitioner submitted that regarding compliance of the mandatory requirement under Section 50 of the NDPS Act, the prosecution had placed three different versions, each contradictory to other, but none in full compliance. The records indicates that, the Superintendent of Police came to Auroville only after completion of the search. The seizure alone was done in his presence. Therefore, there is clear violation of Section 50 of the NDPS Act.

8.The prosecution records not certain about the contraband seized from the possession of this petitioner. In the search and seizure form column 5, which is meant for the details about the person from whom seized, his father name and address is blank without any details. Instead in the table meant for details of narcotic drugs seized and recovered, under the column ' Method of Concealment', the name of the accused and his signature is found. In the remand report, it is alleged that from the petitioner 60 grams of ocean



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ganja was recovered. Whereas the final report says, from this petitioner, 1600 blots of LSD was seized.

9.The Investigating Officer in this case had recorded in the FIR that on receipt of the reliable information, he went to Auto Stand near JIPMER, Gorimedu along with his team, police photographer and weight gainer. The team, after seizure from A-1 and A-2 at Gorimedu, went to Auroville and seized 1600 LSD and 60 grams of Ocean Ganja from A-4 and A-5. However, records relied by the prosecution indicates that the LSD and ocean ganja was weighed subsequently in a provision stores at Gorimedu which is few kilometre away from the spot of seizure. This belies the content of search and seizure mahazar.

10.The Learned Public Prosecutor for the Union Territory of Puducherry, submitted that, international gang involved in drug trafficking and selling it to the public in Puducherry was busted in this case. The petitioners and his associates were found in possession of LSD, Hashish Oil and Ocean ganja all clandestinely imported into India. This petitioner, who came from Bangalore along with his friend Mohammed Fazal (A-5) to



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deliver LSD and ocean ganja were caught red handed. The seizure was done at the spot after properly explaining the right of the accused to be searched before a Judicial Officer or a Gazetted Officer. The right explained at the time of search and the option opted by this petitioner is reduced into writing and this will prevail over anything other document found in contrary.

11.The LSD Multicolour paper is uniform and similar. Hence, it need not be mixed to draw sample. The photograph of the LSD papers taken and produced before the Court after drawing sample for analysis will prove the said fact. The petitioner and others had conspired to transport prohibited Narcotic and Psychotropic Substances across the border and brought it to Puducherry for to be sold to the public and visitors to Puducherry. The total seizure of LSD paper from this petitioner is about 17 grams which is far above the commercial quantity. The material placed before the trial Court after investigation provides sufficient and reasonable belief that the petitioner had in possession of commercial quantity of LSD paper of foreign origin and had shared with the other accused persons the intention to do illegal act of drug trafficking. The presumption of culpability is against this petitioner.



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12.The prime contention of the petitioner is that the case is foisted on the petitioner with fake seizure. He was not arrested on the date, time and place mentioned in the documents. He and Mohammed Fazal were picked up by the respondent police from the residence at Maruthi Nagar, Bangalore on 27.06.2024. They were shown arrest as if they were found in possession of LSD Blots and Ocean ganja near Auroville, Villupuram District, Tamilnadu. At the time, when A-4 and A-5 were picked from Bangalore, A-3 Suraj was also present with them. However, he was not arrested, but shown as absconding accused. To substantiate this allegations the pen drive containing CCTV footage is enclosed along with the bail petition.

13.This Court, on examining the content of the pen drive, finds 4 plain cloth persons entering a flat bearing No: B-4 on 27.06.2024 at about 05.11 p.m and coming out with three other persons. One in the middle and two others caught by their neck on either side by the persons who entered the flat. This footage captured from the CCTV camera kept focusing the entrance of the flat. Though nothing more is made out from this footage, the conspicuous silence of the prosecution about the allegation made in para 6 of the bail petition, throws doubt about the case of the prosecution, coupled



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with the fact that in the carbon copy of the seizure memo, the column (5) meant for details regarding the person from whom the contraband seized is left blank. In the seizure memo, the place of seizure is mentioned as, 'In front of Aroma Garden, Edayanchavady, Auroville, Villupuram District'. The weigh bill produced by the prosecution indicates the contraband alleged to have been seized from this petitioner and A-5 near Auroville is weighed at 'A.Shanmugavel, General Stores' located opposite to JIPMER, Municipal Complex, Gorimedu, Puducherry. No explanation forthcoming from the prosecution why the contraband was not weighed at the spot of seizure. However, the weight of the contraband found in the seizure memo alleged to have prepared at the spot of seizure.

14. For the above reasons, this Court finds that there are reasonable ground to believe that the seizure of alleged 1600 blots of LSD is not in the manner, time and place as mentioned in the records relied by the prosecution. Hence, this Court is inclined to grant bail to the petitioner with certain conditions.



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15. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for **Rs.1,00,000/- (Rupees one lakh only)** with **two sureties**, each for a like sum to the satisfaction of the learned **Judicial Magistrate-I, Puducherry** and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the Application for Surety ship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Magistrate shall obtain a copy of any one of the identity proofs to ensure their identity;

[b]the petitioner shall surrender the passport if any before the trial Court;

[c] **the petitioner shall report before the trial Court on every 1st and 15th day of English calender month at 10.30 a.m., besides, the petitioner shall attend the trial on all hearing dates without fail;**

[d] On breach of any of the aforementioned conditions, the learned Magistrate/Trial Court is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned 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)13 SCC 283];**



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

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Note :

1. Registry is directed to forthwith upload this order in the Official Website of this Court.
2. All concerned to act on this order being uploaded in Official Website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in the official website of this Court will be watermarked and will also have a QR code.

To

- 1.The Judicial Magistrate-I at Puducherry.
- 2.The Station House Officer, D Nagar Police Station, Puducherry.
- 3.The Central Prison of Puducherry.
- 4.The Public Prosecutor, High Court of Madras.



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Dr.G.JAYACHANDRAN, J.

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delivery Order made in
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