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Crl.O.P.Nos.3455, 11823 & 21376 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2025

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THE HONOURABLE Mr. JUSTICE K. RAJASEKAR

Crl.O.P.Nos.3455, 11823 & 21376 of 2025

Crl.O.P.No.3455 of 2025:

Jafar

... Petitioner/A2

Vs.

State rep. by
The Inspector of Police,
NIB, CID, Salem,
Salem District.
(Crime No.18 of 2024)

... Respondent

For Petitioner : Mr.W.Camyles Gandhi
For Respondent : Mr.A.Gopinath,
Government Advocate (Crl.Side)

Crl.O.P.No.11823 of 2025:

1.Syed Uvairan
2.Muhammad Noufal

... Petitioners/A3 & A4

Vs.

The State rep. by
The Inspector of Police,
NIB CID,
Salem.
(Crime No.18 of 2024)

... Respondent



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For Petitioners : Mr.R.Sankarasubbu
For Respondent : Mr.A.Gopinath,
Government Advocate (Crl.Side)

Crl.O.P.No.21376 of 2025:

Shijoob

... Petitioner/A1

Vs.

The State of Tamil Nadu,
Rep. by the Inspector of Police,
NIB CID Police Station,
Salem.
(Crime No.18 of 2024)

... Respondent

For Petitioner : Mr.M.Iliyas
For Respondent : Mr.A.Gopinath,
Government Advocate (Crl.Side)

COMMON PRAYER : Criminal Original Petitions filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, to enlarge the petitioners on bail in Crime No.18 of 2024 on the file of the respondent police, pending investigation.

COMMON ORDER

The petitioners, who were arrested and remanded to judicial custody on **17.02.2024, 16.02.2024, 08.03.2024 respectively** for the alleged offence under **Section 8(c) r/w 20 (b) (ii) (C), 25 and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985** in **Crime No.18 of 2024** on the file of the respondent police, seek bail.



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2. The case of the prosecution is that, on 16.02.2024, based on secret information regarding the illegal transportation of narcotic Substances, the respondent police, along with their team, went to the scene of occurrence. At the spot, three persons were found arriving in a Hyundai Verna car bearing Registration No. KL 07 BV 2029, another vehicle, a Maruti Swift bearing Registration No. KL 41 P 7447, two persons travelled in it. Both the cars were intercepted. One person from Swift car, stopped it and ran away from there. Immediately the respondent police surrounded other accused and enquired them. By search and seizure effected and it was revealed that the accused persons, namely Shijoob (A1), Jafar (A2), Syed Uvairan (A3), travelled in Hyundai Verna car and Muhammad Noufal (A4), and Suresh Kambanipadi (A5), travelled in Swift car were involved in the illegal possession and transport of narcotic substances and recovered 55.00 kilograms of Ganja from the Verna car. Subsequently, four samples of Ganja, each weighing 50 grams, were drawn, and the remaining contraband was retained in the same bag. The seized materials were secured under the cover of a seizure mahazar in the presence of witnesses. Thereafter, accused A1 was arrested, and along with the seized



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falsely implicated in this case. The learned counsel also submitted that the petitioners are willing to abide by any conditions that may be imposed by this Court. Hence, he prayed to grant bail to the petitioners.

5. Mr.Illiyas, learned counsel for the petitioner/Shijoob, in Crl.O.P.No.3455 of 2025, submitted that the petitioner is arrayed as A1 in the case. He further submitted that no contraband was recovered from the petitioner and that he was arrested on 08.03.2024. He also submitted that the petitioner is innocent, has not committed any offence as alleged by the prosecution, and has been falsely implicated in this case. The learned counsel further submitted that the petitioner is willing to abide with any condition that may be imposed by this Court. Hence, he prays to grant bail to the petitioner.

6. The learned Government Advocate (Crl.Side) appearing for the respondent police reiterated the prosecution case, upon instructions, submitted that based on secret information, a case was registered by NIB CID, Salem, under Sections 8(c). r/w 20(b) (ii) (C), 25 & 29(1) of NDPS Act against the accused persons. He further submitted that a total contraband of 55 kgs was recovered from A1/Ashijoob, A2/Jafar, A3/Syed Uvairan, and A4/Muhammad



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Noufal, which constitutes a commercial quantity. During the course of investigation, the arrested accused were produced before the learned Magistrate and remanded to judicial custody. The investigation revealed that the accused used to purchase the contraband from unknown persons in Andhra Pradesh and sell the same for personal gain. On 15.04.2024, samples of the seized contraband were sent to the Forensic Science Laboratory, Salem, for chemical analysis, and the report received on 26.04.2024 confirmed the samples to be ganja. It was further contended that this is the petitioners second bail applications and that the earlier bail applications were dismissed by this Court vide orders dated 04.09.2024 and 15.11.2024, respectively. The investigation has been completed and a charge sheet has been filed which has been taken on file in Spl.C.C.No.180 of 2024 and that an analysis of the mobile numbers of A1 revealed that the he was in contact with all the accused and that they were all present at the same location. It was therefore, submitted that if the accused are released on bail, there is a likelihood of their absconding and hampering the investigation. Hence, he vehemently opposed to grant bail to the petitioners.

7. I have considered the submissions made on both sides and also perused the records.



8. Recently, the Apex Court in *Union of India vs. Vigin K.Varghese* reported in **2025 INSC 1316** has considered the scope of **Section 37 of NDPS Act** and also the continuous incarceration of the petitioners and the relevant paragraphs are extracted hereunder:

“17.The High Court then, on the strength of those premises, recorded a finding that there exist reasonable grounds to believe that the applicant is not guilty of the alleged offence, treating prolonged incarceration and likely delay as the justification for bail. Such a finding is not a casual observation. It is the statutory threshold under Section 37(1)(b)(ii) which would disentitle the discretionary relief and grant of bail must necessarily rest on careful appraisal of the material available. A conclusion of this nature, if returned without addressing the prosecution’s assertions of operative control and antecedent involvement, risks trenching upon appreciation of evidence which would be in the domain of trial court at first instance.

18.This Court ordinarily shows deference to the discretion exercised by the High Court while considering the grant of bail. However, offences involving commercial quantity of narcotic drugs stand on a distinct statutory footing. Section 37 enacts a specific embargo on the grant of bail and obligates the Court to record satisfaction on the twin requirements noticed above, in addition to the ordinary tests under the Code of Criminal Procedure.

.....

20.We are of the view that, in the facts of this case, it would not be appropriate for this Court at the threshold stage itself to render findings on whether there are or not reasonable grounds, for believing that the respondent is not guilty, or on



whether he is likely to commit any offence while on bail. That factual assessment, which the statute requires to be made and recorded with reasons, is one that the High Court must undertake upon a complete and fair appraisal of the rival contentions based on materials placed before it.”

9. In Union Of India Through NCB vs. Md. Nawaz Khan reported in 2021 10 SCC 100, the Apex Court has held as follows:

“25. We shall deal with each of these circumstances in turn. The respondent has been accused of an offence under [Section 8](#) of the NDPS Act, which is punishable under [Sections 21, 27A, 29, 60\(3\)](#) of the said Act. [Section 8](#) of the Act prohibits a person from possessing any narcotic drug or psychotropic substance. The concept of possession recurs in [Sections 20 to 22](#), which provide for punishment for offences under the Act. In [Madan Lal and Another v. State of Himachal Pradesh](#) 16 this Court held that “19. Whether there was conscious possession has to be determined with reference to the factual backdrop. The facts which can be culled out from the evidence on record are that all the accused persons were travelling in a vehicle and as noted by the trial court they were known to each other and it has not been explained or shown as to how they travelled together from the same destination in a vehicle which was not a public vehicle.

20. [Section 20\(b\)](#) makes possession of contraband articles an offence. [Section 20](#) appears in [Chapter IV of the Act](#) which relates to offences for possession of such articles. It is submitted that in order to make the possession illicit, there must be a conscious possession.



21. It is highlighted that unless the possession was coupled with the requisite mental element i.e. conscious possession and not mere custody without awareness of the nature of such possession, [Section 20](#) is not attracted.

22. The expression “possession” is a polymorphous term which assumes different colours in different contexts. It may carry different meanings in contextually different backgrounds. It is impossible, as was observed in [Supdt. & Remembrancer of Legal \(2003\) 7 SCC 465](#) *Affairs, W.B. v. Anil Kumar Bhunja* [(1979) 4 SCC 274 : 1979 SCC (Cri) 1038 : AIR 1980 SC 52] to work out a completely logical and precise definition of “possession” uniformly applicable to all situations in the context of all statutes.

The word “conscious” means awareness about a particular fact. It is a state of mind which is deliberate or intended. [...]

26. Once possession is established, the person who claims that it was not a conscious possession has to establish it, because how he came to be in possession is within his special knowledge. [Section 35](#) of the Act gives a statutory recognition of this position because of the presumption available in law. Similar is the position in terms of [Section 54](#) where also presumption is available to be drawn from possession of illicit articles.”

26. What amounts to “conscious possession” was also considered in [Dharampal Singh v. State of Punjab](#) 17 , where it was held that the knowledge of possession of contraband has to be gleaned from the facts and circumstances of a case. The standard of conscious possession would be different in case of a public transport vehicle with several persons as opposed to a private vehicle with a few persons known to one another. In [Mohan Lal v. State of Rajasthan](#) 18 , this Court also observed that the term “possession” could mean physical



possession with animus; custody over the prohibited substances with animus; exercise of dominion and control as a result of concealment; or personal knowledge as to the existence of the contraband and the intention based on this knowledge.”

10. Admittedly, in this case, A1 to A3 travelled in a car from which ganja has been recovered; A4 and A5 also accompanied them in another car. Further it is also stated that they have previous bad antecedents. Since A1 to A3 travelled in same car; and they are all known to each other; seized contraband is commercial quantity; the petitioners have to establish that they were not in “conscious possession” through the trial and same could not be decided during the bail hearing.

11. As far as A4 and A5 is concerned, there are other materials to show that they jointly proceeded and reached the place of occurrence. They were also seen by the police party and it is alleged that there was frequent calls made between them and location of their phones etc., are connecting them with A1 to A3 and also to the contrabands. In view of rigours of Section 37 of the NDPS Act, the petitioners herein has to satisfy the twin conditions and in these cases points raised herein is not sufficient to satisfy the twin conditions. Hence, this Court is not inclined to go into the merits of the case.



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12. In view of the above, this Court is of the view that the prosecution has *prima facie* established that the petitioners are in conscious possession of the contraband. Hence, this Court is not inclined to grant bail to the petitioners. Accordingly, these Criminal Original Petitions stand dismissed.

28.11.2025

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To:

1.The Union of India
through Jr.The Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit, Chennai-600 077.

2.The Public Prosecutor,
High Court of Madras.

K.RAJASEKAR, J.

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