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Crl.OP.No.8398 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.OP.No.8398 of 2025

L.Akula Ayyappa Reddy ... Petitioner(s) /Accused

Vs.

The State rep. by
The Inspector of Police,
Denkanikottai Police Station
Krishnagiri District
Crime No.530 of 2021.

... Respondent(s)/ Complainant

Prayer: Criminal Original Petition filed under Section 483 of BNSS 2023,
to enlarge the petitioner on bail in Spl.C.C.No.96 of 2022, on the file of the
Special Judge for EC/ NDPS Act Cases, Salem.

For petitioner(s) : Mr.B.Vasudevan

For Respondent(s) : M/s.J.R.Archana
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed by the petitioner, who

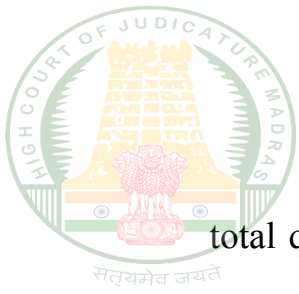


was arrested and remanded to judicial custody on 18.12.2021, seeking bail in Crime No.530 of 2021, registered for the offences under Sections 8(c) r/w Sections 20(b)(ii)(C) and 25 of NDPS Act.

2. It is the case of the prosecution that the petitioner is arrayed as A2. The petitioner along with A3, A4 and A5 were found in possession of 300kgs of Ganja in six polythene bags each contains 50kgs of Ganja. The seizure was effected from this petitioner. The petitioner was arrested on 18.12.2021 and thus committed the aforesaid offences.

3.The learned counsel for the petitioner submitted that all the co-accused have been released on bail. The petitioner is aged 71 years. The trial has not even commenced. The case is posted for examination of L.W.1 and L.W.2 on 21.04.2025. There are totally 23 witnesses to be examined. Considering the period of incarceration from 2021, the petitioner may be released on bail.

4.The learned Government Advocate (Criminal side) reiterated the prosecution case. The learned Government Advocate further submitted that



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total quantity of 300kgs of ganga was seized from this petitioner. Since no seizure was made from the other accused they were released on bail. Hence, they cannot be treated on par with the petitioner and submitted that trial court may be directed to expedite the trial and opposed the grant of bail.

5.It is not in dispute that there are totally five accused in this case. A1 is no more. Accused 3, 4 and 5 were granted bail. According to the learned Government Advocate the trial could not commenced, since there was no Presiding Officer in the Special Court, Salem. The case is now posted for examination of L.W.1 and L.W.2 and there are 23 witnesses to be examined. It is seen that petitioner has no bad antecedents.

6.The Hon'ble Supreme Court in *Rabi Prakash vs. State of Odisha* reported in **2023 SCC Online SC 1109**, 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) of the NDPS Act.”



CrI.OP.No.8398 of 2025

WEB COPY 7. Further, in *Ankur Chaudhary vs. State of Madhya Pradesh* in **Special Leave to Appeal (CrI).No.4648 of 2024**, the Hon'ble Supreme Court had 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, conditional liberty overriding the statutory embargo created under Section 37(1)(b) of the NDPS Act may, in such circumstances, be considered”

8.Hence, considering the aforesaid fact, the fact that the petitioner is in custody from 18.12.2021 and the trial is not likely to be concluded in the near future and taking note of the aforesaid observations of the Hon'ble Supreme Court, _this Court is inclined to grant bail to the petitioner with certain conditions.

9.Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of **Rs.25,000/- (Rupees Twenty-five Thousand only)** with two sureties, **one surety should be a blood surety**



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and another surety should be a local surety, each for a like sum to the satisfaction of the learned Special Judge for NDPS and EC Act Cases,

Salem District, and on further conditions that:-

(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned 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 once a week at 10.30 a.m. until further orders and apart from that, he shall appear for every hearing before the trial Court regularly without fail. If any deviation in complying any of the conditions, bail granted to the petitioner shall stand cancelled ;

(c) the petitioner shall not commit any offences of similar nature;

(d) the petitioner shall not abscond either during investigation or trial;

(e) the petitioner shall not tamper with evidence or witness either during investigation or trial;



WEB COPY



CrI.OP.No.8398 of 2025

(f) on breach of any of the aforesaid conditions, the learned Judicial 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 of Kerala [(2005)AIR SCW 5560]***;

(g) If the accused thereafter absconds, a fresh FIR can be registered under Section 269 B.N.S.

22.04.2025

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
Internet: Yes/No
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To

1. The Inspector of Police,
Denkanikottai Police Station
Krishnagiri District
2. The Public Prosecutor,
Madras High Court,
Chennai.



CrI.OP.No.8398 of 2025

3. The Superintendent of Prison,
Central Prison, Salem.

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4. Special Courts for EC & NDPS Act Cases, Salem

SUNDER MOHAN, J.

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CrI.OP.No.8398 of 2025



WEB COPY



CrI.OP.No.8398 of 2025

22.04.2025