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CrI.O.P.No.3946 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.O.P.No.3946 of 2025

Kethishwaran

...Petitioners/Accused

Vs.

Union of India rep. By
Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai.
R.R.No.06 of 2022.

...Respondent

PRAYER: This criminal original petition has been filed under Section 483 of BNSS to enlarge the petitioner/Accused on bail pending trial in C.C. No.226 of 2022 in R.R.No.06 of 2022 in NCB F.No.48/1/02/2022 NCB/MDS on the file of the I Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai.

For Petitioner : Mr.T.S.Sasi Kumar

For Respondent : Mr.N.P.Kumar,
Special Public Prosecutor for
NCB cases.



ORDER

This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 07.02.2022 seeking bail in R.R.No.06 of 2022 registered for the offence under Sections 8(c), r/w 22(C), 27, 28 and 29 of NDPS Act.

2.The case of the prosecution is that based on the secret information, the respondent police found that first and fifth accused were in illegal possession of 11 kgs of White Crystalline substance believed to be Amphetamine; that on the confession of the first accused, the petitioner has been arrayed as A6 and that he had assisted the other accused in purchasing the said contraband from A1 to A5 and had been selling it in Chennai and thereafter, exported to Sri Lanka. Hence, the case.

3.Learned counsel appearing for the petitioner would submit that the only material available against the petitioner is that the confession of the co-accused and the call records; that all the similarly placed co-accused were released on bail by this Court in Crl.O.P. Nos.22456 of 2022 and Crl.O.P. No.530 of 2024 by orders dated 19.09.2022 and 24.02.2024 respectively;



that one of the co-accused viz., A5 from whom the contraband seized was granted bail by the Hon'ble Supreme Court in SL.P.(CRL) No.15605 of 2024 dated 03.02.2025 on the ground that he has been incarcerated for about three years and thus prayed for bail to the petitioner.

4.Learned Special Public Prosecutor for NCB cases appearing for the respondent police reiterated the prosecution case and filed a counter affidavit and further submitted that the petitioner has been delaying the trial and has not cross examined any of the witnesses and the petitioner is Sri Lankan National and opposed for grant of bail.

5. Admittedly, the petitioner is in custody from 07.02.2022. The petitioner is sought to be implicated only on the confession of the co-accused. Though there are certain call records connecting the petitioner with the other accused which is relied upon by the prosecution, it is seen that similarly placed co-accused were granted bail by this Court in the orders referred above. It is also seen that the Hon'ble Supreme Court granted bail to the co accused (A5), considering the long period of incarceration and considering the above facts, this Court is of the view that



further custody of the petitioner would violate the petitioner's right under Article 21 of the Constitution of India and hence, this Court is inclined to grant bail with certain conditions. However, since the petitioner is a Sri Lankan National, the respondent shall inform the Registration Officer under the Registration of Foreigners Rules, 1992 about this order.

6. Accordingly, the petitioner 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, (one surety must be a blood relative of the petitioner)**, each for a like sum to the satisfaction of the **learned I Additional Special Court for Exclusive Trial of Cases under NDPS Act, 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;

[b] the petitioner shall report before the trial Court everyday at 10.30 a.m., until further orders;

[c] Since the petitioner is a Sri Lankan National, the respondent shall communicate the order of granting bail, to the concerned



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Registration Officer appointed under Rule 3 of Registration of Foreigners Rules, 1992 as per the decision of the Hon'ble Supreme Court in Frank Vitus vs. Narcotics Control Bureau and others in Crl. Appeal Nos.2814-2815 of 2024 dated 06.01.2025.

[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;

[f] On breach of any of the aforesaid conditions, the learned 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.

16.04.2025

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SUNDER MOHAN, J.

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Copy to:

- 1.The Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai.
- 2.Central Prison-I, Puzhal, Chennai.
- 3.The I Additional Special Court
Exclusive Trial of Cases under NDPS Act, Chennai.
- 4.The Public Prosecutor,
High Court, Madras.

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