



Crl. O.P. No.4465 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.04.2025

CORAM

THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl. O.P. No.4465 of 2025

Manoj

... Petitioner/Accused No.2

Vs.

State represented by:

The Inspector of Police,
Jolarpet Railway Police Station,
GRP, Chennai District.
(Crime No.45 of 2023)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, pleaded to enlarge the petitioner on bail, in connection with the case in SPI C.C. No.209 of 2023 on the file of the Principal Special Court under EC and NDPS Act cases, Salem, Salem District.

For Petitioner : Mr. A.Tamilselvan
For Respondent : Ms. J.R. Archana,
Government Advocate (Crl. Side)



Crl. O.P. No.4465 of 2025

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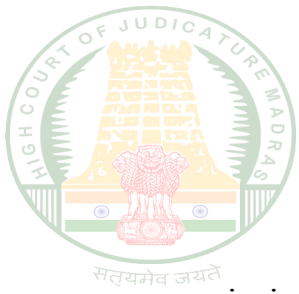
ORDER

This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 16.03.2023 seeking bail in connection with the case in SPI C.C. No.209 of 2023, registered for the offences under Sections 8(c) r/w 20(b)(ii)(C) of NDPS Act.

2. The case of the prosecution is that the petitioner along with A2 was found in possession of 16 kg 400 grams, 11kg 500 grams and 5kgs of Ganja. Hence, the case.

3. This is the third bail application before this Court. The earlier bail applications in Crl.OP.No.24422 of 2023 and Crl.OP.No.8121 of 2024 were dismissed on 07.11.2023 and 24.06.2024 respectively by this Court.

4. The learned counsel appearing for the petitioner would submit that the 16 kg 400 grams, 11kg 500 grams and 5kgs of Ganja were seized from the petitioner and the second accused; that there is no evidence to show that they both



Crl. O.P. No.4465 of 2025

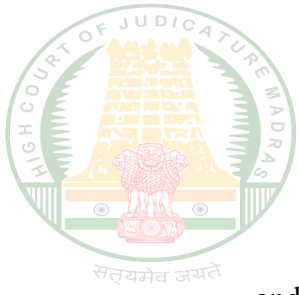
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were in joint possession of 33kgs of Ganja which is a commercial quantity; that they travelled in a General compartment in the train and hence there is no evidence to show that they were in joint possession of contraband ; that the trial is posted for cross examination of PW1 and is not likely to be completed in the near future and therefore, considering the period of incarceration, he may be released on bail.

5. The learned Government Advocate (Crl.Side) appearing for the respondent police, while opposing the grant of bail to the petitioner, reiterated the prosecution case and submitted that the petitioner and the second accused were found in possession of 33 kgs of Ganja, which is a commercial quantity.

6. This Court had carefully considered the submissions and perused the records.

7.The Hon'ble Supreme Court in *Rabi Prakash vs. State of Odisha* reported in **2023 SCC Online SC 1109**, has held as follows:

“4.....The Prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution



Crl. O.P. No.4465 of 2025

WEB COPY

and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b) of the NDPS Act.”



Crl. O.P. No.4465 of 2025

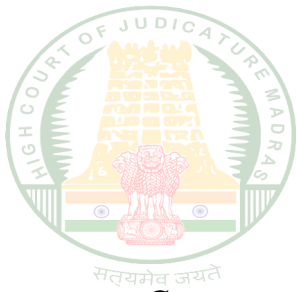
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8. Further, in *Ankur Chaudhary vs. State of Madhya Pradesh* in **Special Leave to Appeal (Crl).No.4648 of 2024**, the Hon'ble Supreme Court had held as follows;

“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”

9. The petitioner is in custody from 16.03.2023. The trial is not likely to be concluded in the near future. The above observations of the Hon'ble Supreme Court are squarely applicable to the petitioner. The petitioner has no bad antecedents. Hence, this Court is inclined to grant bail to the petitioner with certain conditions.

10. 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, of whom one shall be a blood relative and the other a local surety each for a like sum to the satisfaction of the **Principal Special**



Crl. O.P. No.4465 of 2025

Court, under EC and NDPS Act Cases, Salem, 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 trial Court daily at 10.30 a.m. until further orders;

(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;

(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]***;



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Crl. O.P. No.4465 of 2025

SUNDER MOHAN., J.

msv/ak

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

04.04.2025

msv/ak

To

- 1.The Principal Special Court, under EC and NDPS Act Cases, Salem, Salem District
- 2.The Inspector of Police, Jolarpet Railway Police Station, GRP, Chennai District.
- 3.The Central Prison, Salem
- 4.The Public Prosecutor, High Court, Madras.

Crl.O.P.No.4465 of 2025