



CrI.O.P.No.4773 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.04.2025

PRONOUNCED ON : 15.04.2025

CORAM

THE HON'BLE MR. JUSTICE SUNDER MOHAN

CrI.O.P.No.4773 of 2025

Akbar @ Akbar Ali

... Petitioner/A2

Vs.

The Union of India, through,
The Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai.

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, to enlarge the petitioner/A2 on bail pending trial in CC No.536 of 2024 on the file of the learned II Additional Special Judge for NDPS Act Cases, at Chennai.

For Petitioner : Mr.R.C.Paul Kanagaraj

For Respondent : Mr.N.P.Kumar
Spl.Public Prosecutor (for NCB cases)

ORDER

This Criminal Original Petition has been filed by the petitioner/A2, who was arrested on 14.12.2023 and remanded to judicial custody on



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15.12.2023, seeking bail in R.R.No.60 of 2023 [NCB F.No.48/1/25/2023/NCB/MDS) registered for the offence under Sections 8(c) r/w 12, 21(c), 22(C), 23(C), 28 & 29 of the NDPS Act and pending trial in CC No.536 of 2024 on the file of the learned II Additional Special Judge for NDPS Act Cases, at Chennai.

2. The case of the prosecution is that on secret information, the respondent intercepted the first accused, who was found in possession of 2kgs of Methamphetamine; that on his confession, it was revealed that the petitioner/A2 had supplied the contraband to the first accused which was meant for one Rajan; that the petitioner was thereafter arrested, and thus committed the aforesaid offences.

3. The learned counsel for the petitioner submitted that the petitioner is in custody from 14.12.2023; that no contraband was seized from this petitioner; that the only material relied upon by the prosecution is the confession of the co-accused and there is nothing to suggest his involvement in the call details record produced by the respondent; that he has been implicated only because he was released after conviction in an earlier case; and that considering the aforesaid facts and the period of



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incarceration, the petitioner may be released on bail.

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4. (i) The learned Special Public Prosecutor, however, submitted that the petitioner had one previous case, in which he was convicted and had served the full sentence and later released; that the petitioner had refused to sign the statement; that there are call details record to establish the petitioner's close association with one Madan, who was the recipient of goods at Srilanka; and that the WhatsApp voice chat between the petitioner and his wife also reveals the clandestine operation of the petitioner.

(ii) The learned Special Public Prosecutor further submitted that the petitioner had also met the first accused on the date of occurrence; that there were photographs in the petitioner's mobile phone, which matches with the packaging and physical appearance of the contraband seized from the first accused and also photographs of the room of the first accused, were found in his mobile phone, and prayed for dismissal of the bail petition.



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5. The learned counsel for the petitioner in response submitted that the mobile phone of the petitioner was seized by the respondent and the photographs were subsequently taken and that would not implicate the petitioner; and that the WhatsApp chats does not implicate the petitioner, in any manner and prayed for bail.

6. This Court has considered the rival submissions and perused the available records.

7. This is the second bail petition and the earlier bail petition in CrI.OP.No.29485 of 2024 was dismissed as withdrawn on 27.01.2025.

8. It is not in dispute, that the petitioner was earlier convicted for the offence under the NDPS Act for possession of 4 Kgs of Heroin and he was sentenced to undergo 10 years rigorous imprisonment. Though no contraband was seized from the petitioner, the transcript of the conversations between the petitioner and other accused and also with his wife is relied upon by the prosecution. It is for the trial Court to consider the evidence and adjudicate on the involvement of the petitioner.



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9. Considering the past antecedents of the petitioner and the evidence sought to be relied upon by the respondent, apart from the confession, this Court is of the view that the petitioner has not satisfied the twin conditions under Section 37 of the NDPS Act and hence, not inclined to consider the bail petition at this stage. However, the petitioner cannot be incarcerated indefinitely during trial. The trial Court shall conclude the trial as expeditiously as possible. If the trial is not completed within a period of six months from the date of receipt of a copy of this order, the petitioner shall be at liberty to renew the bail petition. However, if there is any change in circumstances, the petitioner is at liberty to renew his bail application earlier.

10. With the above directions, the Criminal Original Petition stands dismissed.

15.04.2025

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To



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SUNDER MOHAN, J.
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1. The II Additional Special Judge for NDPS Act Cases,
Chennai.

2. The Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai.

3. The Public Prosecutor,
High Court, Madras.

Pre-delivery order in
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15.04.2025