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Crl.O.P.No.4611 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.No.4611 of 2025

1.Shankar

2.Sivanandham

...Petitioners/Accused 26 & 27

Vs.

State rep by

The Inspector of Police,

Vellode Police Station,

Erode.

(Crime No.87 of 2024)

...

Respondent

PRAYER: This criminal original petition has been filed under Section 483 of BNSS to enlarge the petitioners on bail in Crime No.87 of 2024 pending investigation on the file of the respondent police.

For Petitioners : Mr.S.Mohamed Ansar

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed by the petitioners, who were arrested and remanded to judicial custody on 18.01.2025, seeking bail



in Crime No.87 of 2024 registered for the offence under Section 8(c) r/w
20(b)(ii)(C), 25 of NDPS Act.

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2.It is the case of the prosecution that on 29.05.2024, the respondent police conducted routine checkup and found A1 to A3 in possession of 150.850 kgs of ganja and their confession revealed that the petitioners had funded A1 to A3 for the purchase of said ganja from Andhra Pradesh. Hence, the case.

3.The learned counsel for the petitioners would submit that the allegations are false; that the petitioners have no previous cases and that since they are sought to be implicated only on the confession of co-accused, the petitioners have satisfied the requirement of twin conditions of NDPS Act. The learned counsel for the petitioners would further submit that this Court had granted bail to the co-accused in this case in Crl.O.P.Nos.20833, 23084, 22861, 24001, 23406, 24595, 26196, 27532 & 25522 of 2024 and that considering the period of incarceration suffered by the petitioners, they may be released on bail.



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4.Per contra, the learned Government Advocate (Crl. Side) reiterated the prosecution case and submitted that the respondent has collected the bank statements of the accused which confirms that there was money transaction between the petitioners and A1 to A3 and that the other evidence available is the confession statement of co-accused. He further confirms the fact that similarly placed co-accused were granted bail by this Court.

5.Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.Side) for the respondent Police and perused the materials available on record.

6.This Court had considered the bail application of the co-accused wherein this Court has observed as follows:

“6.Considering the representation made by both side; the nature of allegation charged against the petitioners, that no recovery was made from the petitioners and the contraband was recovered from A1 and A2 only, that based on the confession of the co-accused, these petitioners were arrayed as an accused in this case, that the petitioners have no previous cases in similar kind of offences and also taking into consideration the period of incarceration undergone by the petitioners, this Court is inclined to grant bail to the petitioners with certain conditions:”



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7. Apart from the confession statement of co-accused, the only other material available is bank transactions. Therefore, this Court is the view that the recovery made from A1 and A2 cannot be attributed to the petitioners and thus, the petitioners have satisfied the twin conditions of Section 37 of the NDPS Act. Hence, considering the aforesaid facts, period of incarceration, this Court is inclined to grant bail to the petitioners with certain conditions:

8. Accordingly, the petitioners are ordered to be released on bail on their executing separate bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only) each** with **two sureties**, each for a like sum to the satisfaction of the **Judicial Magistrate, Perunthurai**, 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 petitioners shall report before the respondent Police, everyday at 10.30 a.m., until further orders;



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[c] the petitioners shall not abscond either during investigation or trial;

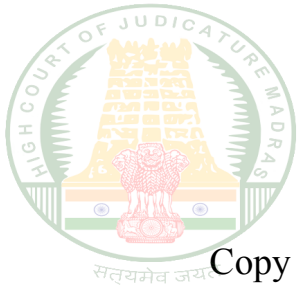
[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]***;

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 B.N.S.

28.02.2025

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- 1.The Inspector of Police,
Vellode Police Station,
Erode.
- 2.The Judicial Magistrate, Perunthurai.
- 3.Sub Jail, Gobichettipalayam, Erode.
- 4.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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