



Crl. O.P. No.5471 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.5471 of 2025

Dilip Kundukattil
S/o. Mohandasani

... Petitioner/Accused

Vs.

State represented by:

The Superintendent of Customs,
AIR Intelligence Unit,
International Airport,
Coimbatore.

(O.R.No. 35 of 2024-25)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, pleased to enlarge the petitioner on bail, in connection with the case in O.R.No. 35 of 2024-25 on the file of Additional District Judge-cum-Special Court for Essential Commodities Act Cases, Coimbatore.

For Petitioner : Mr. P.R.Ramesh Babu

For Respondent : Mr. N.P.Kumar, Spl.P.P.



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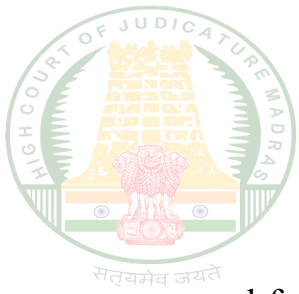
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ORDER

This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 21.08.2024 seeking bail in connection with the case in O.R.No. 35 of 2024-25 , registered for the offences under Sections 8, 20,23, 29(1) of NDPS Act.

2. The case of the prosecution is that based on the secret information the respondent intercepted the petitioner in the International Airport, Coimbatore who had arrived from Singapore by Scoot Flight No. TR 540 and he was enquired in the presence of two alleged independent witnesses, based on their statement 2002 grams of contraband was seized from his check in luggage. Thereafter, the petitioner/accused was remanded to judicial custody on 21.08.2024.

3. The learned counsel appearing for the petitioner would submit that the petitioner was arrested on 19.08.2024 and contraband was seized from him was an intermediate quantity; that the petitioner/accused has been under judicial custody from 21.08.2024; that he is innocent and he did not commit any offence as alleged by the prosecution and there is previous case against him. The learned

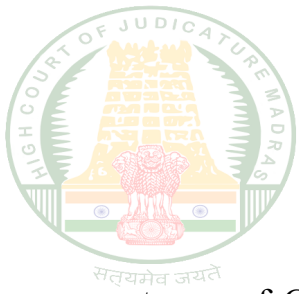


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counsel for the petitioner would further submit that this is the 2nd bail application before this Court. Earlier the petitioner moved a bail application before this Court in Crl.OP.No.27010 of 2024 and the same was dismissed as withdrawn. The learned counsel further reiterates that the contraband seized from him was "Ganja" as per the lab report and hence he was in possession of intermediate quantity and sought for bail.

4. The learned Government Advocate (Crl.Side) reiterated the prosecution case and submitted that what was seized from the the petitioner is Cannabis (Ganja); that since the petitioner/accused was found in possession 2 kgs which is a commercial quantity, the rigors of Section 37 of NDPS Act would be applicable; and that the petitioner would not be entitled for grant of bail, unless he satisfies the twin conditions.

5. The petitioner is in judicial custody from 21.08.2024. The petitioner was found in possession of 2002 gms of contraband. It is seen from the test report filed by the respondent that the contraband was found to be a cannabis (Ganja). The definition of Cannabis under section 2 (3) of the NDPS Act includes Charas, Ganja, and any mixture with or without any neutral material or any of the above



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terms of Cannabis. From the test report is clear that one form of Cannabis (i.e) Ganja was seized from the petitioner. Therefore, the petitioner was found in possession of intermediate quantity of contraband, since the commercial quantity of Ganja is 20 kg. However this observation is only for the purpose of this bail application and would not affect the right of the respondent to establish its case in the trial.

6. Considering the fact that the petitioner is in judicial custody from 21.08.2024 and the aforesaid facts, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of **Rs.15,000/-** (*Rupees Fifteen Thousand only*) with two sureties, each for a like sum to the satisfaction of the **learned Additional District Judge cum Special Court for Essential Commodities Act Cases, Coimbatore** and on further conditions that:-



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(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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SUNDER MOHAN., J.

ak/msv

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

04.04.2025

ak/msv

To

- 1.The Additional District Judge cum Special Court for Essential Commodities Act Cases, Coimbatore
- 2.The Superintendent of Customs, AIR Intelligence Unit,International Airport, Coimbatore.
- 3.The Superintendent of Prison, Central Prison, Coimbatore.
- 4.The Public Prosecutor, High Court, Madras.

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