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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.No.4979 of 2025

Muthulingam

...Petitioner/Accused 4

Vs.

State rep by
The Inspector of Police,
PEW Steel Plant Police Station,
Salem.

... Respondent

PRAYER: This criminal original petition has been filed under Section 483 of BNSS to enlarge the petitioner on bail in Spl.C.C.No.32 of 2024 on the file of the Special Court for EC & NDPS at Salem.

For Petitioner : Mr.K.Thenrajan

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



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ORDER

This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 07.05.2023, seeking bail in Crime No.376 of 2023 registered for the offence under Sections 8(c) r/w 20(b)(ii)(C), 25 and 29(1) of NDPS Act, 1985.

2.It is the case of the prosecution that on 12.04.2023 at about 7.00 p.m., the respondent received a secret information and when they intercepted a vehicle, they found A2, A5 and A6 in possession of 200 kgs of ganja and on seeing the police, the accused persons tried to escape from the place of occurrence; that on their confession, A1 was implicated and on his confession, other accused, including the petitioner, were implicated. The role attributed to the petitioner is that he had assisted the other accused in transporting the contraband to the Fortuner vehicle which was intercepted by the respondent police.



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3.The learned counsel for the petitioner would submit that the petitioner was arrested on 07.05.2023 and that the only material available against him is confession statement of the co-accused and that he has one previous case registered in the year 2017 which is still pending and he is on bail in that case and sought for bail.

4.Per contra, the learned Government Advocate (Crl. Side) reiterated the prosecution case and submitted that the said 200 kgs of ganja was seized from A2, A5 and A6 and that no contraband was seized from the petitioner.

5.The Hon'ble Supreme Court in *Rabi Prakash's case*, has held as follows:

“4.....The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.”



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6. Considering the aforesaid facts and the observation made by the Hon'ble Supreme Court in *Rabi Prakash's case*, this Court is of the view that further custody of the petitioner is not required. Hence, 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 his executing 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 **Judicial Magistrate No.I, Salem**, 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 Trial Court everyday at 10.30 a.m., until further orders.

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

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



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[e] 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]***;

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

17.03.2025

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Copy to:

- 1.The Inspector of Police,
PEW Steel Plant Police Station,
Salem.
- 2.The Judicial Magistrate No.I, Salem.
- 3.Central Prison, Salem.
- 4.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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