



Crl. O.P. No.5420 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2025

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THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.5420 of 2025

Konate Habib

... Petitioner/Accused-6

Vs.

The State represented by-
The Inspector of Police,
K8 Arumbakkam Police Station,
Chennai.

(Crime No.441 of 2024).

... Respondent

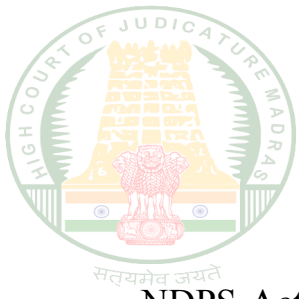
PRAYER: Criminal Original Petition filed under Section 483 of BNSS, pleaded to enlarge the petitioner on bail, in connection with the Crime No.441 of 2024, pending investigation on the file of the respondent Police.

For Petitioner : Mr.K.Anandha Raja

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

ORDER

This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 23.10.2024, seeking bail in Crime No.441 of 2024 registered for the offences under Sections 8(c) r/w 22(b), 29(1) of



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NDPS Act, 1985 @ Section 8(c) r/w 22(b), 22(C), 25, 20(b)(ii)(A) and 29(1) of NDPS Act.

2. The case of the prosecution is that based on a secret information, the respondent and their officials went to the scene of occurrence and found A1 standing in a suspicious manner; that on seeing the respondent police, A1 tried to escape from the place; that after the respondent caught him and found him in possession of 11.59 grams of Methamphetamine and on his confession A2, A3 and A9 were found in possession of 14.33 grams of Methamphetamine in a house. Hence, the case.

3. Learned counsel appearing for the petitioner submitted that the allegations are false; that the petitioner is sought to be implicated on the confession of co-accused; that no recovery was made from the petitioner; that the petitioner has no bad antecedents; that the petitioner is in custody from 23.10.2024 and hence, further custody of the petitioner is not required.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police reiterated the prosecution case and submitted that the petitioner was



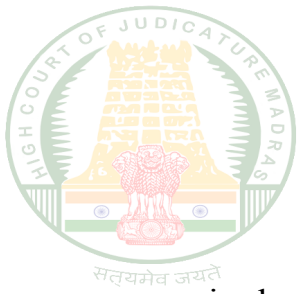
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implicated based on the confession of A1 and no seizure was made from the petitioner and he is a Nigerian national and that the petitioner has no bad antecedents.

5. Heard the learned counsel on either side and perused the materials available on record.

6. It is seen that the Government of Tamil Nadu has passed an order vide G.O(1D) No.146 directing the petitioner to reside in the Special Camp identified and located by the District Collector, Tiruchirappalli District in the event of his release from prison, till deportation and shall not leave the boundaries of Special Camp at Tiruchirappalli except with the prior permission of the District Collector, Tiruchirappalli District.

7. It is a fact that there was no seizure of Methamphetamine from this petitioner. The prosecution has not established that the petitioner was in joint possession of commercial quantity along with co-accused. There is no material connecting the petitioner with other accused except the confession of the co-accused. In such circumstances, the petitioner has satisfied the twin conditions



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required under Section 37 of NDPS Act. Hence, considering the nature of allegations, period of incarceration and since further custody of the petitioner is not required for the purpose of investigation, this Court is inclined to grant bail to the petitioner with certain conditions.

8. 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 learned **Principal Special Court for EC and NDPS Act Cases, Chennai.**

[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 the respondent Police, daily 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;

[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



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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.

[g] Since the petitioner is a Nigerian National, the respondent shall **communicate the order of granting bail, to the concerned Registration Officer appointed under Rule 3 of Registration of Foreigners Rules, 1992 as per the decision of the Hon'ble Supreme Court in Frank Vitus vs. Narcotics Control Bureau and others in Crl. Appeal Nos.2814-2815 of 2024 dated 06.01.2025.**

17.03.2025

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To

- 1.The Principal Special Court for EC and NDPS Act Cases, Chennai.
2. The Inspector of Police, K8 Arumbakkam Police Station, Chennai.
3. The Superintendent, Central Prison – II, Puzhal.
4. The Public Prosecutor, High Court of Madras.



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SUNDER MOHAN., J.

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