



Crl.OP.No.7759 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 24.03.2025

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THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.7759 of 2025

Ramesh alias Othakai Ramesh

.. Petitioner

Vs.

The State rep by
The Inspector of Police,
NIB-CID Salem Police,
Salem District.

(Crime No.63 of 2023)

.. Respondent

PRAYER: Criminal Original Petition filed under Section 483 of BNSS,
pleaded to enlarge the petitioner on bail, in connection with the Crime
No.63 of 2023 pending investigation on the file of the respondent Police.

For Petitioner : M/s.C.Deepakkumar

For Respondent : Ms.J.R.Archana
Government Advocate(Crl.Side)

ORDER

This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 27.12.2023, seeking bail in Crime No.63 of 2023 registered for the offence under Sections 8(c) r/w 20(b)(ii)(C) and 25, 29(1) of NDPS Act.

2. This is the third bail application filed by the petitioner. Though



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the earlier anticipatory bail petition of the petitioner was dismissed by my learned predecessor, Hon'ble Justice P.Dhanabal, this petition is listed before this Court pursuant to the orders passed by the Hon'ble Division Bench of this Court in Crl.O.P.No.31787 of 2024 on 04.03.2025.

3. The case of the prosecution is that the petitioner along with other accused was found in illegal possession of 30 kilograms of Ganja.

4. The learned counsel appearing for the petitioner submitted that the earlier bail application was dismissed by this Court in Crl.O.P.No.26419 of 2024 dated 13.11.2024 with a direction to the trial Court to complete the trial but the trial has not commenced so far; that the co-accused similarly placed was granted bail by this Court in Crl.O.P.No.29330 of 2024 on the ground that prolonged detention would affect the right under Article 21 of the Constitution of India.

5. Learned Government Advocate (Crl.Side) appearing for the



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respondent police, while opposing for grant of bail to the petitioner, reiterated the prosecution case and submitted that there are ten previous cases pending against the petitioner and he is on bail in those cases.

6. Admittedly, the petitioner is in custody from 27.12.2023. Though the earlier bail application was dismissed by this Court in Crl.O.P.No.26419 of 2024 dated 13.11.2024 with a direction to the trial Court to complete the trial, the trial has not commenced so far. It is also seen that the co-accused similarly placed was granted bail by this Court in Crl.O.P.No.29330 of 2024 dated 23.01.2025 with the following observations:

“5. Taking note of the fact that the contraband was seized from A1 and not from this petitioner and the fact that investigation is completed and the charge sheet has been filed and also taking into consideration the judgements of the Hon'ble Supreme Court in case of Ankur Chaudhary vs. State of Madhya Pradesh in Special Leave to Appeal (Crl).No.4648 of 2024, wherein the Hon'ble Supreme Court held that “it is to observe that failure to conclude the trial within a reasonable time resulting in prolonged incarceration militates against the precious fundamental right guaranteed under Article 21 of the Constitution of India, and as such, conditional liberty overriding the statutory embargo created under Section 37(1)(b) of the NDPS Act may, in such circumstances, be considered' and



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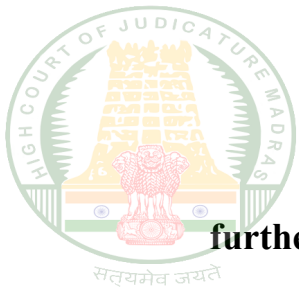
the dictum laid down in the case in Rabi Prakash vs. State of Odisha reported in 2023 SCC Online SC1109 that “ The Prolonged incarceration, general militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b) of the NDPS Act, and the fact that co-accused was released on bail and the fact that now the case is posted for examination of L.W.1 and L.W.2, this court is inclined to grant bail to the petitioner subject to the following conditions ”

7. The above observations in respect of similarly placed co-accused would apply to the petitioner as well and accordingly, 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 Judicial Magistrate No-II, 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 appear before the Trail Court daily until



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further orders;

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[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 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.

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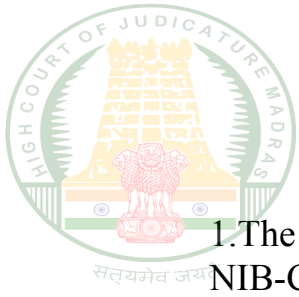
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1.The Inspector of Police,
NIB-CID Salem Police,
Salem District.

2.The learned Judicial Magistrate No-II, Salem

3.The Superintendent of Prison,
Central Prison, Salem.

4.The Public Prosecutor,
High Court, Madras.

SUNDER MOHAN , J.

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