



WEB COPY



Crl.O.P.No.6278 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.6278 of 2025

1. B.Jiban Biswas
2. D.Balaram Pujari
3. Shashi Kumar

... Petitioners

Vs

State represented by
The Inspector of Police,
Pallikaranai PEW,
Tambaram City PEW,
Chennai.

Crime No.54 of 2024

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 Bharatiya Nagarik Suraksha Sanhita, 2023/ Section 482 of Cr.P.C. to set aside the order of remand passed as against the petitioner by the Judicial Magistrate-II, Alandur in Cr.No.54 of 2024, dated 12.02.2024.

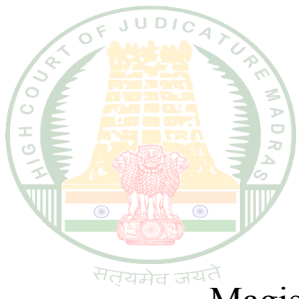
For Petitioners : Mr.Sebastian Raj

For Respondent : Mr.A.Gopinath

Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to set aside the order of remand passed as against the petitioner by the Judicial



Crl.O.P.No.6278 of 2025

Magistrate-II, Alandur in Cr.No.54 of 2024, dated 12.02.2024.

WEB COPY

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) for the respondents and perused the materials available on record.

3. The petitioners are the accused in Crime No.54 of 2024 under Sections 8(c) read with 20(b)(ii)(C), 25 and 29(1) of NDPS Act alleging that when the respondent intercepted the accused in their routine check up, the first accused was found in possession of 50 Kgs of Ganja, the second accused was found in possession of 21 Kgs of Ganja and the third accused was found in possession of 30 Kgs of Ganja. Pursuant to their illegal possession of the contraband, they were arrested and after recording their confession statement, produced the accused before the Judicial Magistrate II, Alandur for remand. The remand was accepted and the petitioners were remanded to judicial custody on 12.02.2024.

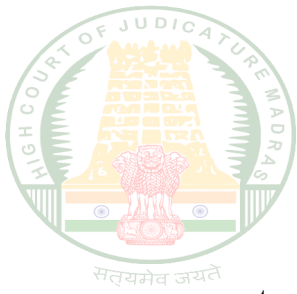


Crl.O.P.No.6278 of 2025

WEB COPY

4. The petitioners challenged the order of remand on three grounds that the petitioners' arrest were not informed to their family members; all the petitioners do not know to speak tamil; they are hailing from other States and they know only Hindi, Odiya and Kannada. They were not property explained at the time of their arrest. Even the arrest memo do not contain the witness signature. Though it is stated that the arrest of the accused was informed to their family members and other particulars were sent to their respective wives by registered post, there is no proof to show the same.

5. The learned counsel for the petitioner relied upon the Judgment of the Hon'ble Supreme Court of India in S.L.P.(Crl.)No.13320 of 2024, in the case of *Vihaan Kumar Vs State of Haryana and others* dated 07.02.2025, in which the Hon'ble Supreme Court of India held that failure to communicate the grounds of arrest to the family members as mandated by Article 22(1) of Constitution of India, the arrest itself is illegal. It is a violation of Fundamental Right of the accused under Article 21 of Constitution of India. The Right to Live with dignity is the



Crl.O.P.No.6278 of 2025

part of the rights guaranteed under Article 21 of Constitution of India.

WEB COPY

6. He also relied upon the Judgment of the Hon'ble Supreme Court of India in Crl.A.No.1518 of 2025 in the case of ***Ashish Kakkar Vs UT of Chandigarh***, dated 25.03.2025, in which the Hon'ble Supreme Court of India held that the arrest memo cannot be construed as grounds of arrest, as no other worthwhile particulars have been furnished to the accused. It is a clear non compliance of the mandate under Section 50 of the NDPS Act, which has been introduced to give effect to Article 22(1) of the Constitution of India.

7. A perusal of the status report filed by the respondent revealed that the petitioners are arrayed as A1 to A3. They were found in possession of the contraband weighing 101 Kgs of Ganja in total. After recording their confession statement, seized the contraband in the presence of witnesses and they were arrested on 12.02.2024 and remanded to judicial custody on the same day by the Judicial Magistrate, Alandur. Their respective wives were duly intimated about the arrest of



Crl.O.P.No.6278 of 2025

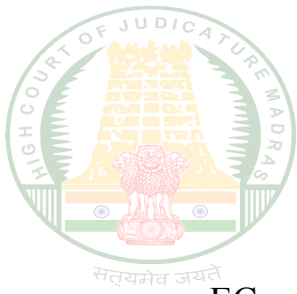
WEB COPY

the petitioners. Further, they were provided with the grounds of arrest.

Though it is in tamil, it was duly translated to the petitioners in their own language of Hindi by an interpreter one Solai Raja, who is a Head Constable.

8. A perusal of the statement of the said Solai Raja also revealed that the petitioners were duly explained about their ground of arrest. That apart, admittedly, they were found in possession of contraband weighing 101 Kgs of Ganja in total and as such, it is impliedly indicated that the petitioners will be arrested for possession of contraband.

9. A perusal of records also revealed that the wives of the petitioners were duly informed by the registered post about the arrest of the petitioners. Further, their application for bail was dismissed. After completion of investigation, the respondent filed a final report and the same has been taken cognizance by the trial Court in C.C.No.599 of 2024, on the file of the II Additional Special Judge, Special Court under



Crl.O.P.No.6278 of 2025

WEB COPY

EC and NDPS Act, Chennai. Now, the prosecution had examined PW1 and it is posted for further evidence. The petitioners were remanded into judicial custody on 12.02.2024. After a period of one year, the petitioners came forward with this petition challenging the order of remand that too after having been failed in their bail applications.

10. In view of the above, this Court finds no infirmity or illegality in the remand order and the Judgments cited by the learned counsel for the petitioner is not at all applicable to the case on hand. However, the Trial Court is directed to complete the Trial in C.C.No.599 of 2024, within a period of three months from the date of receipt of a copy of this order.

11. Accordingly, this Criminal Original Petition is dismissed.

17.04.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
mn

Page 6 of 8



Crl.O.P.No.6278 of 2025

WEB COPY

To

1. The II Additional Special Judge,
Special Court under EC and NDPS Act, Chennai.
2. The Judicial Magistrate-II, Alandur.
3. The Inspector of Police,
Pallikaranai PEW,
Tambaram City PEW,
Chennai.
4. The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.O.P.No.6278 of 2025

G.K.ILANTHIRAIYAN. J.

mn

Crl.O.P.No.6278 of 2025

17.04.2025