



Crl.O.P.No.7761 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.03.2025

PRONOUNCED ON : 03.04.2025

CORAM

THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.7761 of 2025

B.Rukesh @ Suresh

... Petitioner/A8

Vs.

Union of India,
Rep. by Jr. Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai – 600 077.
[F.No.48/1/14/2022-NCB/MDS]

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, pleaded to enlarge the petitioner on bail, in connection with the case in Spl.C.C.No.238 of 2023 pending on the file of the learned Special Judge, Special Court for EC & NDPS Act, Salem.

For Petitioner : Mr.M.G.Martin Manivannan
for Mr.C.M.Ramakrishnan

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



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CrI.O.P.No.7761 of 2025



Crl.O.P.No.7761 of 2025

WEB COPY

ORDER

This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 17.07.2023 seeking bail in connection with the case in F.No.48/1/14/2022-NCB/MDS, registered for the offence under Sections 8(c) r/w 20(b)(ii)(C), 27A, 28 & 29 of NDPS Act, 1985.

2. The case of the prosecution is that on 15.11.2022, on secret information, A1 to A7 were found in possession of 243 Kgs of Ganja; that the confession of the accused involved in that case revealed that Suresh/the petitioner [A8] was the kingpin of the case and he had supplied the contraband to the accused; that at that time, the petitioner could not be identified; that later, on 13.06.2023 on secret information, 160 kgs of Ganja was seized from one Sh.S.Kiran Kumar; that his confession revealed that the petitioner had supplied the contraband to him; that later when the petitioner was arrested and his statement was recorded, it was revealed that the person Suresh named by the co-accused in this case, was this petitioner and thus, he committed the aforesaid offences.



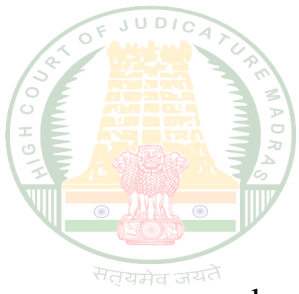
Crl.O.P.No.7761 of 2025

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3. The learned counsel appearing for the petitioner would submit that the petitioner is sought to be implicated only on the confession of the co-accused; that even in the subsequent case registered for possession of 160 Kgs. of Ganja by the co-accused, he was implicated on the confession of the co-accused; that the petitioner is in custody from 17.07.2023; that the respondent had now filed the complaint; that the trial is not likely to be concluded in the near future and hence, he may be released on bail.

4. The learned Government Advocate (Crl.Side), appearing for the respondent *per contra* opposing the grant of bail to the petitioner submitted that apart from the confession, there are materials to show that the petitioner and other accused were in constant touch with each other through mobile phone; that the petitioner has one previous case for possession of commercial quantity of Ganja; that the trial is likely to be completed in the near future and the case is posted now for examination of LW1 to LW3; and that trial Court may be directed to complete the trial as expeditiously as possible.

5. Admittedly, the petitioner is implicated only on the confession of the co-



Crl.O.P.No.7761 of 2025

accused. Apart from the confession, the only other material is the call detail records. Even in the subsequent case registered against the petitioner, he was implicated on the confession of the co-accused.

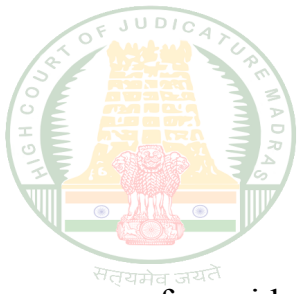
6. The Hon'ble Supreme Court in *Ankur Chaudhary vs. State of Madhya Pradesh* in **Special Leave to Appeal (Crl).No.4648 of 2024**, had held as follows:

“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”

7. Further, in *Rabi Prakash vs. State of Odisha* reported in **2023 SCC Online SC 1109**, the Hon'ble Supreme Court held as follows:

“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) of the NDPS Act.”

8. Considering the aforesaid facts, the period of incarceration, the fact that the trial is not likely to be completed in the near future and in view of the



Crl.O.P.No.7761 of 2025

aforesaid observations of the Hon'ble Supreme Court, this Court is inclined to grant bail to the petitioner with certain conditions.

9. 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 Special Judge, Special Court for EC & NDPS Act, Salem**, and on further conditions that:-

(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;

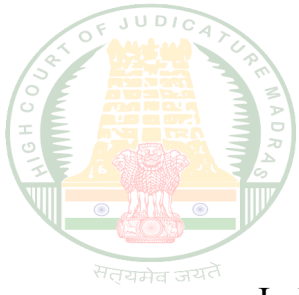
(b) the petitioner shall appear before the trial Court on all working days at 10.30 a.m., regularly without fail. If any deviation in complying any of the conditions, bail granted to the petitioner shall stand cancelled;

(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



CrI.O.P.No.7761 of 2025

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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];***

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

03.04.2025

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Crl.O.P.No.7761 of 2025

SUNDER MOHAN., J.

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To

- 1.The Special Judge, Special Court for EC & NDPS Act, Salem.
- 2.The Jr. Intelligence Officer, Narcotics Control Bureau, Chennai Zonal Unit, Chennai – 600 077.
- 3.The Superintendent of Prison, Central Prison, Puzhal.
- 4.The Public Prosecutor, High Court, Madras

Pre-delivery order
Crl.O.P.No.7761 of 2025



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CrI.O.P.No.7761 of 2025

03.04.2025