



WEB COPY

Crl.OP.No.12153 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2025

CORAM

THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.12153 of 2025

Vimal @ Psycho Vimal @ Vimalanathan

.. Petitioner/Accused

Vs.

The State rep by
The Inspector of Police,
D-3, ICE House Police Station,
Chennai.
(Crime No.1499 of 2020)

.. Respondent

PRAYER: This criminal original petition has been filed under Section 483 of BNSS to enlarge the petitioner on bail in C.C. No.111 of 2021 on the file of the Special Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS & EC Act at Chennai in Crime No.1499 of 2020 on the file of the respondent police.

For Petitioner : Mr.A.Vinothkumar

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



ORDER

WEB COPY

This is the third bail application filed by the petitioner.

2. Though the earlier bail petitions of the petitioner was dismissed by my learned predecessor, Hon'ble Justice G.K.ILANTHIRAIYAN, 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. This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 21.12.2021, seeking bail in Crime No.1499 of 2020 registered for the offence under Sections 8(c), 20(b)(ii)(c) & 29(1) of NDPS Act, 1985.

4. The case of the prosecution is that based on secret information, the petitioner was found in illegal possession of 21 kgs of ganja which is commercial quantity and thus committed the aforesaid offence.



WEB COPY

5. The learned counsel for the petitioner submitted that this is the third bail application; that the first bail application was dismissed on 03.08.2022 in Crl.O.P. No.18083 of 2022 and the second bail application was dismissed on 13.09.2023 in Crl.O.P. No.21013 of 2023; that the co-accused was granted bail; that the trial has not been concluded expeditiously inspite of a direction issued by this Court in Crl.O.P. No.18083 of 2022 vide order dated 03.08.2022; that the petitioner is in judicial custody from 21.12.2021 for nearly 4 years 6 months and considering the period of incarceration, he sought for bail and also relied the judgments of the Hon'ble Supreme Court in the cases of *Rabi Prakash Vs. The State of Odisha* reported in 2023 LiveLaw (SC) 533 and *Ankur Chaudhary Vs. State of Madhya Pradesh* reported in 2024 SCC Online SC 2730 and sought for bail.

6. The learned Government Advocate appearing for the respondent police reiterated the prosecution case and submitted that P.W.1 and P.W.2 were examined and there are totally 9 witnesses to be examined and the trial would be completed soon and that there are 21 previous cases against the petitioner registered for IPC offences.



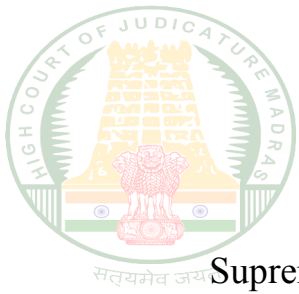
WEB COPY

7. Admittedly, the petitioner is in custody from 21.12.2021. Even though there was a specific direction issued by this Court for expeditious disposal, the trial could not be completed. The witnesses are yet to be examined. The petitioner has no bad antecedents under NDPS Act and the petitioner is on bail in all the IPC cases registered against him. The Hon'ble Supreme Court in *Rabi Prakash Vs. The State of Odisha* reported in 2023 *LiveLaw* (SC) 533, 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.”

and in *Ankur Chaudhary's case*, the Hon'ble Supreme Court has held as follows:

“ 6.....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, condition liberty overriding the statutory embargo created under Section 37(1)(b) of the NDPS Act may, in such circumstances, be considered.”



WEB COPY

8. Considering the aforesaid observations made by the Hon'ble Supreme Court, the fact that the earlier direction of this Court to complete the trial within a period of three months could not be complied with, and since the trial is not not likely to be completed in the near future, 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 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 II Additional Special Court for Exclusive Trial of Cases under NDPS Act at Chennai 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 the 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;



[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]***;

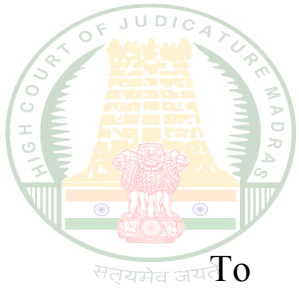
[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 B.N.S.

29.04.2025

Index : Yes / No

Internet : Yes / No

rkp



To
WEB COPY

- 1.The Inspector of Police,
D-3, ICE House Police Station,
Chennai.
- 2.The Special Judge, II Additional Special Court
for EC & NDPS Act cases, Chennai.
- 3.The Superintendent of Prison,
Central Prison, Puzhal.
- 4.The Public Prosecutor,
High Court, Madras.



WEB COPY

Crl.OP.No.12153 of 2



SUNDER MOHAN, J.
rkp

Crl.O.P.No.12153 of 2025

29.04.2025