



Crl.R.C.No.422 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 25.03.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.422 of 2025

Banshilal

... Petitioner

Vs.

State By:
Station House Officer,
Villupuram PS, CBCID-North,
Villupuram District.
(Crime No.2/2024)

Now Pending:
State by,
Superintendent of Police,
CBI/STB/Chennai.
RC.3(S)/21025

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 438 and 442 of BNSS, to call for the records and set aside the order passed by the learned Chief Judicial Magistrate, Kallakurichi in Crl.M.P.No.200 of 2025 dated 31.01.2025 in RC.3(S)/2025 now pending on the file of the Superintendent of Police, CBI/STB/Chennai and enlarge the petitioner on bail pending



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investigation in RC.3(S)/2025 on the file of the Superintendent of Police,
CBI/STB/Chennai.

For Petitioner : Mr.A.Nagarajan
for Mr.K.R.Ramesh Kumar

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor
for CBI Cases

ORDER

This Criminal Revision Case is filed to set aside the order passed by the learned Chief Judicial Magistrate, Kallakurichi in Crl.M.P.No.200 of 2025 dated 31.01.2025 in RC.3(S)/2025 now pending on the file of the Superintendent of Police, CBI/STB/Chennai and enlarge the petitioner on bail.

2.The petitioner/accused filed a bail application under Section 167(2) Cr.P.C. before the learned Chief Judicial Magistrate, Kallakurichi in Crl.M.P.No.200 of 2025 which was dismissed on 31.01.2025 for the reason that pursuant to the orders passed by this Court on 20.11.2024 confirmed by the Apex Court by order dated 17.12.2024, Crime No.2 of 2024 registered



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by CBCID, Villupuram has been transferred to CBI and re-registered as RC 3(S)/2025 on 25.01.2025. Since the learned Chief Judicial Magistrate, Kallakurichi has now become functus officio and ceased of the matter, the petition was dismissed. Following the same, the petitioner filed a Statutory bail petition before the learned Chief Judicial Magistrate, Chengalpattu, who had returned the petition on 04.03.2025, which reads as follows:

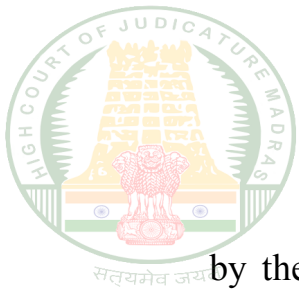
1) The case was filed by CBCID, Villupuram Cr.No.2/2024 u/s.328, 304(2) IPC and Sec 4(1)(i) and 4(1-A) of TN Prohibition Act relating to death of more persons due to the consumption of illicit arrack has been re-registered as CBI Cr.No.RC3(S)/2025/CBI/STB/Chennai.

2) CBI/STB, Chennai has been filed FIR against the accused in Cr.No.3/S/2025 on 21.01.2025 and the same was received by this Court only on 29.01.2025.

In view of the above reason this bail petition is not maintainable and hence this bail petition is returned.

Against which, the present petition is filed.

3.The contention of the learned counsel for the petitioner is that since the bail petition of the petitioner in CrI.M.P.No.200 of 2025 was dismissed



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by the learned Chief Judicial Magistrate, Kallakurichi on 31.01.2025, the petitioner filed a bail petition before the learned Chief Judicial Magistrate, Chengalpattu on 01.03.2025 but the same not entertained and returned on 04.03.2025. He would submit that the learned Chief Judicial Magistrate, Chengalpattu returning the petitioner's bail petition without adjudication is not proper. Admittedly the petitioner was arrested in the above case on 24.06.2024. He would submit that the petitioner appeared before the Prohibition and Enforcement Department, St.Thomas Mount, gave his statement, thereafter he was taken to Kallakurichi on the same day and produced before the Additional Superintendent of Police, Cyber Crime Wing, Kallakurichi at DSP Camp Office where he was shown arrest. The allegation against the petitioner is that he is the owner of M/s.Divya Chemical Corporation at Chennai, he purchased NBA-Normal Butanol Alcohol (Printing), Toluene (Printing Rubber Solution), Ethyle Acetate (Printing), Thinner, MDC-Methylene Di Chloride, N-Hazane, Iso Propelye Alcohol, Acetone, Xylene, Acide from M/s.Lakshmi Enterprises, B.R.Traders, Vishnu Enterprises, Hyderabad and sold it to some person who had mixed with some other chemicals and sold it as illicit arrack and by



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consuming the same, many innocent people died. He further submitted that pursuant to the petitioner's arrest, he was detained under Goondas Act by the District Collector, Kallakurichi by order dated 25.08.2024 and this Court in H.C.P.No.2528 of 2024 by order dated 06.01.2025 quashed the detention order. Thereafter, the petitioner filed the bail petition on the ground that in this case, the petitioner is in confinement for more than 110 days, interim charge sheet was filed on 12.10.2024, returned and as on date, there is no charge sheet filed in the case but the Court below failed to consider the same. It is admitted that the interim final report returned to CBCID on 26.11.2024 and now the present Investigation Agency took up investigation on 25.01.2025 and as on date, there is no final report filed. The petitioner's statutory right for bail accrued to him which is a constitutional guarantee and it cannot be denied to the petitioner on technicalities. He would further submit that one of the co-accused Madesh whose statutory bail application was dismissed by the learned Chief Judicial Magistrate, Kallakurichi in Crl.M.P.No.133 of 2024 by order dated 30.09.2024 and this Court by order dated 09.01.2025 in Crl.R.C.No.1871 of 2024 finding that the investigation has been transferred to CBI would hardly



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make any difference while considering the indefeasible right of the petitioner to be released on default bail and as regards the objection regarding presence of Tramadol, which is a Schedule H drug and under the Drugs and Cosmetics Act would attract Narcotic Drugs and Psychotropic Substances Act (NDPS Act) is not sustainable since there is no petition under Section 36(A) of NDPS Act and the procedures contemplated therein not invoked.

4.In support of his contention, the learned counsel for the petitioner relied upon the decision of the Apex Court in the case of ***Rakesh Kumar Paul vs. State of Assam*** reported in ***(2017) 15 SCC 67*** and the decision of this Court in the case of ***R.Henry Paul vs. The State of Tamil Nadu [Crl.O.P.No.14316 of 2021 dated 31.01.2022]***, wherein this Court referring to various judgments of the Apex Court and finding that the admitted position is that the charge sheet on the day of consideration of bail application not filed whatever may be the reason, granted statutory bail. But in this case, neither the Chief Judicial Magistrate, Kallakurichi nor the Chief Judicial Magistrate, Chengalpattu considered the indefeasible right accrued



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to the petitioner for default bail for non-filing of charge sheet. The Court below denying the Constitutional right, mechanically returning the statutory bail petition is not proper. He would submit that there are totally 24 accused, of which 15 accused granted bail either by this Court or by the learned Chief Judicial Magistrate, Kallakurichi or the learned Chief Judicial Magistrate, Chengalpattu. Hence, prayed for granting of bail.

5.The learned Special Public Prosecutor filed his counter stating pursuant to the orders of this Court and the Apex Court, the case in Crime No.2 of 2024 of CBCID, Villupuram has been transferred to CBID and re-registered as RC.3(S)/2025 on 21.01.2025. The case is that on 19.06.2024 one Dinakaran S/o.Sekar from Karunapuram, Kallakurichi filed a complaint at Kallakurichi Police Station alleging that his father Sekar, who worked as a Cattle broker consumed illicit arrack on 18.06.2024 which was sold by Kannukutti @ Govindaraj along with his brother Thamotharan and his wife Vijaya near Karunapuram burial ground. After consuming the arrack, his father returned and on the next day i.e. on 19.06.2024, he experienced symptoms of vomiting and severe stomach pain. The



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complainant took him to Sanjeevi Hospital, Kallakurichi and despite receiving medical attention, his father Sekar died. Later the complainant came to know that other than his father, 20 other residents of Karunapuram are who consumed illicit arrack were admitted in Hospital and taking treatment. Based on his complaint, a case in Crime No.417 of 2024 for the offence under Sections 328 and 304(ii) IPC and Section 4(1)(i) and 4(1-A) of Tamil Nadu Prohibition Act registered. Thereafter, the case was transferred to the Crime Branch CID (CBCID) for further investigation vide proceedings of the Director General of Police and Head of Police Force in Rc.No.02892/C.II(1)/2024 dated 19.06.2024 and the case was re-registered by Villupuram CBCID in Crime No.2 of 2024. On investigation, it revealed that in furtherance of the criminal conspiracy among the accused persons, the petitioner who owns M/s.Divya Chemicals at Madhavaram. Chennai on 10.06.2024 illegally sold six barrels (each 200 litres capacity) of ethyl alcohol mixed with methyl alcohol to accused Madesh through another accused Sivakumar without any receipt on 10.06.2024. Thereafter on 16.06.2024 the accused Madesh transported three barrels of ethyl alcohol, methyl alcohol mixture to Kallakurichi and later the same was transferred

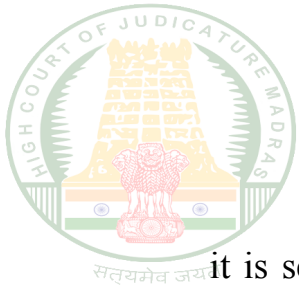


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into 17 cans [each 35 litres capacity] and sold to the accused Nadupaiyan @ Joseph for human consumption which was later supplied to the public through the prohibition offenders and caused liquor tragedy. During the course of investigation by CBCID, part of illicit liquor seized from the accused persons and forwarded for chemical analysis. The report received from the Forensic Science Department confirms the presence of Ethanol and Methanol which lead to the death of many persons. It is submitted that the learned Chief Judicial Magistrate earlier dismissed the bail petition of the petitioner on 31.01.2025 in CrI.M.P.No.200 of 2025 for want of jurisdiction. Subsequently, the bail petition filed by the petitioner before the learned Chief Judicial Magistrate, Chengalpattu was returned on 04.03.2025 considering the gravity of the offences levelled against the petitioner. It is further submitted that investigation requires to be carried out by CBI to find out as to whether these chemicals were procured without following the norms and to whom they were supplied, etc. Hence, prayed for dismissal.

6.Considering the submissions made and on perusal of the materials,



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it is seen that no doubt the offence is of serious in nature. As regards the petitioner, he is the owner of M/s.Divya Chemicals at Madhavaram, Chennai. He illegally sold six barrels (each 200 litres capacity) of ethyl alcohol mixed with methyl alcohol to accused Madesh through another accused Sivakumar without any receipt on 10.06.2024. Thereafter on 16.06.2024 the accused Madesh transported three barrels of ethyl alcohol, methyl alcohol mixture to Kallakurichi and later the same was transferred into 17 cans and sold to the accused Nadupaiyan @ Joseph for human consumption. Admittedly the petitioner is not a named accused and he was subsequently arrayed as accused on the confession of co-accused. In this case, the petitioner appeared before the CBCID Police and thereafter, he was shown arrest. From the date of his arrest, he is in confinement, he was detained under Goondas Act and later, the detention order was quashed by this Court in H.C.P.No.2528 of 2024 by order dated 06.01.2025. The petitioner is in confinement for more than 110 days, charge sheet though attempted to be filed earlier had been returned and as on date, there is no charge sheet filed in the above case. It is also to be seen that the case is now transferred to CBI on the orders of this Court and the CBI took up



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investigation only on 25.01.2025. The right of statutory bail cannot be denied on technicalities and this Court in Crl.R.C.No.1871 of 2024 dated 09.01.2025 considered this aspect and granted bail to the co-accused, who is also similarly placed as that of the petitioner. In view of the above, this Court inclined to set aside the impugned order and the petitioner, is therefore granted bail.

7. Accordingly, this criminal revision case stands allowed and the order dated 31.01.2025 passed in Crl.M.P.No.200 of 2025 by the learned Chief Judicial Magistrate, Kallakurichi, is set aside and the petitioner is ordered to be released on bail on the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.10,000/~ (Rupees ten thousand only), with two sureties, each for a like sum to the satisfaction of the learned Chief Judicial Magistrate, Chengalpattu.

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and



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(iii) The petitioner shall appear before the respondent/CBI daily for a period of thirty days and thereafter as and when required.

(iv) The petitioner shall not commit any offences of similar nature;

(v) The petitioner shall not abscond either during investigation or trial;

(vi) The petitioner not tamper with evidence or witness either during investigation or trial;

(vii) On breach of any of the aforesaid conditions, the learned Sessions Judge/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 Sessions Judge/Trial Court himself as laid down by the Hon-ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]; and

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

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Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

cse

Note: Issue order copy on 25.03.2025



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To

- 1.The Chief Judicial Magistrate,
Chengalpattu.
- 2.The Chief Judicial Magistrate,
Kallakurichi.
- 3.The Station House Officer,
Villupuram PS, CBCID-North,
Villupuram District.
Now Pending:
The Superintendent of Police,
CBI/STB/Chennai.
- 4.The Superintendent,
Central Prison,
Cuddalore.
- 5.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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