



WEB COPY



Crl.O.P.No.8899 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.07.2025
PRONOUNCED ON : 05.08.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8899 of 2025

Ansar Jilani @ Ansar

... Petitioner/A2

Vs.

State, Rep. by
Inspector of Police,
H-1 Washermenpet Police Station,
Chennai.
(Cr.No.06/2024).

... Respondent

PRAYER: Criminal Original Petition is filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 praying to enlarge the petitioner on bail in
Cr.No.06/2024 on the file of the Inspector of Police, H-1 Washermentpet
Police Station, Chennai.

For Petitioner : Mr.G.Prabakaran for Mr.N.Baaskaran

For Respondent : Mr.R.Vinodh Raja,
Government Advocate (Crl. Side)



CrI.O.P.No.8899 of 2025

ORDER

WEB COPY

The petitioner arrested and remanded to judicial custody on 04.01.2024, for the offence punishable under Sections 8(c) r/w 22(C), 25 & 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985 in connection with Crime No.6 of 2024 on the file of the respondent Police, seeks bail.

2. Case of the prosecution is that on 04.01.2024 at 01.00 hours, when the Sub Inspector of Police was in duty, he received secret information about illegal transport of narcotic substances. Based on which, he along with Police team went to scene of occurrence near Kannan Roundana bus stop where two persons came to the place, the respondent Police caught hold of them and enquired. During enquiry, it came to know that the persons are Ansar Jilani @ Ansar/A2/petitioner and Sheik Dawood @ Dawood/A3. The respondent Police searched them, found in possession of 1kg of methamphetamine from each person and seized two wheeler bearing Reg.No.TN-05-CM-5841 (Honda Activa). Immediately, the respondent Police arrested petitioner/A2 & A3 who gave confession statements, which



WEB COPY

reveals that the petitioner/A2 & A3 purchased contraband from A1 with the help of A4 and was to sell for their personal gain. Thereafter, the respondent Police seized contraband and three mobile phones under the cover of seizure mahazar in presence of witnesses. After arrest, the petitioner/A2 and A3 along with seized contraband taken to Police Station and FIR in Crime No.6 of 2024 registered for offence under Sections 8(c) r/w 22(C), 25 & 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985.

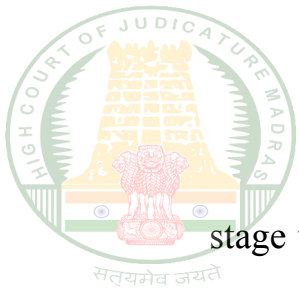
3.The learned counsel for the petitioner/A2 submitted that no contraband recovered from the petitioner in person and it is projected that from the dickey of two wheeler (Honda Activa) used by A3, the contraband seized. In fact, on the date of occurrence, the petitioner and A3 were to the mosque for prayer and not in conscious possession of contraband. He further submitted that a secret information received by the Sub Inspector of Police on 03.01.2024 at 05.00 p.m and he submitted same to the superior officer at 05.15 p.m, thereafter, proceeded to scene of occurrence at 05.45 p.m where the source identified the petitioner/A2 and A3. On seeing the Police, when the petitioner and A3 attempted to flee, they were caught hold. Prior to search notice under Section 50 of NDPS Act served before search.



WEB COPY

In the said notice, there is overwriting and correction of time. In the seizure mahazar, it recorded that between 19.00 hours and 19.30 hours the contraband of 2kgs (1kg each) in polythene cover seized from petitioner and A3. There is no mention about green colour jute bag. Likewise, in the arrest memo, the time of arrest recorded is 05.45 p.m on 03.01.2024. But in the search notice under Section 50 of NDPS, the time mentioned is 06.05 p.m. Hence, the arrest, search and recovery in this case becomes doubtful. Further, it is fortified that the report under Section 57 of NDPS Act submitted on 04.01.2023, though prepared along with FIR. In the 57 report, it is shown that arrest memo prepared between 07.45 p.m and 08.15 p.m and the arrest was at 08.30 p.m. This will prove that the documents not contemporaneously prepared in the time and manner it is shown. Thus, the foundational facts of the case is highly doubtful.

4.He further submitted that the petitioner has got no previous case of similar nature and in this case, except the petitioner and A3, two other accused granted bail by this Court in Crl.O.P.No.17001 of 2025 (A4) on 13.02.2025 and in Crl.O.P.No.996 of 2025 (A1) on 06.02.2025. Now, the investigation completed, charge sheet filed and trial is in progress. At this



stage the petitioner to engage a counsel of his choice to defend his case and to instruct him, becomes imperative.

5.In support of his submissions, the learned counsel for the petitioner relied on the decision of the Hon'ble Apex Court in *Naeem Ahmed Allas Naim Ahmad v. Govt. of NCT of Delhi* reported in **2024 SCC OnLine SC 220** wherein the Hon'ble Apex Court granted bail finding that the petitioner therein spent more than 1 year 11 months in the custody though investigation completed but charges were yet to be framed. On the similar ground, he placed reliance on *Nitish Adhikary @ Bapan v. The State of West Bengal* reported in **2022 SCC OnLine SC 2068** wherein the Apex Court finding that the petitioner therein in prison for 1 year and 7 months and the trial is at the preliminary stage and only one witness has been examined, had granted bail. In the case on hand, the petitioner is in jail for 1 year 6 months *i.e.*, from 04.01.2024. Considering the period of incarceration, bail may be granted to the petitioner.

6.The learned Government Advocate (Crl. Side) appearing for the respondent Police filed counter and strongly opposed the petitioner's



WEB COPY

contention stating that the petitioner is involved in a case of commercial quantity. On 03.01.2024, the petitioner along with A3 found in conscious possession of 2kgs of methamphetamine (each 1kg) at Kannan Roundana Bus stop. This petitioner in a green colour jute bag holding in his hand and A3 concealed the contraband in the dickey of two wheeler Honda Activa. All statutory principles and procedures followed after giving sufficient opportunity to the accused. In presence of witnesses, the petitioner searched, contraband seized, samples from contraband taken, sent for chemical examination, thereafter the contraband repacked by giving proper number and markings. The accused confessed his involvement in purchasing contraband for Rs.5 lakhs and selling it for higher rate of Rs.7 lakhs and the contraband was purchased from A1, brother of A2 which was sourced through A4 from Bangalore, transported the same in his car and contraband trafficked by the petitioner for sale.

7.He further submits that the petitioner was in conscious possession of 1kg of methamphetamine which is a commercial quantity. Now, the investigation completed, charge sheet filed listing 12 witnesses, C.C.No.779 of 2024 assigned and the trial can be completed within stipulated period. If the petitioner is granted bail, he would involve similar nature of cases,



further possibility of abscondance is very much there. Hence, sought for dismissal.

8.Considering the rival submissions and on perusal of materials, it is seen that the Sub Inspector of Police attached to respondent Police Station received secret information on 03.01.2024 that two persons were in possession of contraband. As per Section 42(2) of NDPS Act, this information took down at 17.00 hours and submitted to superior officer who permitted further action on the same day at 17.15 hours. Thereafter, the respondent Police along with his Police team went to scene of occurrence *i.e.*, Kannan Roundana bus stop, informant identified the petitioner and A3. In this case, admittedly the place of search is a public place where notice under Section 50 served at 06.15 p.m and there is a clear overwriting and correction in it. Added to it, the seizure was between 07.00 p.m and 07.30 p.m. In the seizure mahazar, seizure of 2 polythene packets containing 1.12kgs of methamphetamine each and taking samples of 50 grams in each packet in serial Nos.S1, S2, S3, S4 and balance contraband of two packets containing 900 grams each in P1 and P2 alone recorded, there is no mention about green colour jute bag. Further, in the arrest memo served, it is seen



that arrest has been made at 17.45 hours *i.e.*, 05.45 p.m which is contrary to search memo and seizure mahazar. Further, the recordings in the report under Section 57 are contra to the other documents produced. Further, it is shown that the petitioner/A2 and A3 are arrested at 20.30 hours on 03.01.2024 *i.e.*, at 08.30 p.m., followed by examination of A2 from 20.45 hours to 21.15 hours and A3 from 21.30 hours to 22.15 hours, which causes doubt in the case of the prosecution. In this case, the co-accused A1 & A4 already granted bail by this Court.

9.Considering the period of incarceration *i.e.*, 1 year and 6 months and there are contradictions in the arrest, search and seizure of contraband and the petitioner is not previously involved in any criminal case of similar nature and the investigation completed, charge sheet filed, this Court is inclined to grant bail to the petitioner subject to the following conditions.

10.Accordingly, the petitioner is ordered to be released on bail on his executing 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 learned Principal Special Judge for NDPS & EC Act Cases, Chennai and on further conditions



that:

WEB COPY [a]the sureties shall affix their photographs and Left Thumb Impression in the Application for Surety ship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Magistrate shall obtain a copy of any one of the identity proofs to ensure their identity;

[b]the petitioner shall appear before the trial Court on all hearing dates without fail.

[c]the petitioner shall make himself available for interrogation by a Police Officer as and when required;

[d]the petitioner shall not directly or indirectly cause any threat to the de-facto complainant and witnesses;

[e]the petitioner to give an undertaking that if required for being identified by witnesses during investigation or for police custody beyond the first fifteen days, he shall comply to the directions as may be given by the Court in this regard;

[f]On breach of any of the aforementioned conditions, the learned Magistrate/Trial Court is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned 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)13 SCC 283]*;

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



Crl.O.P.No.8899 of 2025

05.08.2025
(¹/₂)

WEB COPY
Speaking Order/Non Speaking Order
Index : Yes/No
Neutral Citation: Yes/No
vv2

Note:

1.Registry is directed to forthwith upload this order in the Official Website of this Court.

2.All concerned to act on this order being uploaded in Official Website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in the official website of this Court will be watermarked and will also have a QR code.



WEB COPY



CrI.O.P.No.8899 of 2025

To

- 1.The XV Metropolitan Magistrate,
George Town at Chennai.
- 2.The Inspector of Police,
H-1 Washermenpet Police Station,
Chennai.
- 3.The Central Prison,
Puzhal.
- 4.The Public Prosecutor,
Madras High Court.



WEB COPY



Crl.O.P.No.8899 of 2025

M.NIRMAL KUMAR, J.

vv2

PRE-DELIVERY ORDER IN
Crl.O.P.No.8899 of 2025

05.08.2025
($\frac{1}{2}$)