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Crl.O.P.Nos.9762, 10114 & 13947 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.08.2025
PRONOUNCED ON : 20.08.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.Nos.9762, 10114 & 13947 of 2025

Crl.O.P.No.9762 of 2025:

Arunkumar

... Petitioner/A9

Vs.

Intelligence Officer,
NCB, Chennai,
Ayapakkam South Unit,
Chennai.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 483 of BNSS, to enlarge the petitioner on bail pending trial in C.C.No.524 of 2022 on the file of Principal Special Judge for NDPS Act, Chennai.

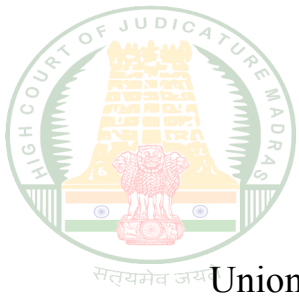
For Petitioner : Mr.T.S.Sasikumar
For Respondent : Mr.N.P.Kumar,
Government Advocate (Crl. Side)

Crl.O.P.No.10114 of 2025:

M.Prakash

... Petitioner/A3

Vs.



Crl.O.P.Nos.9762, 10114 & 13947 of 2025

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Union of India,
Rep by The Superintendent,
Narcotics Control Bureau,
Chennai Zonal Unit.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 483 of BNSS, to enlarge the petitioner on bail pending trial before learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai in C.C.No.524 of 2022.

For Petitioner : Mr.D.Selvam
For Respondent : Mr.N.P.Kumar,
Government Advocate (Crl. Side)

Crl.O.P.No.13947 of 2025:

Andi

... Petitioner/A5

Vs.

The Union of India,
Represented by the Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai – 77.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 483 of BNSS, to enlarge the petitioner on bail in C.C.No.524 of 2022, on the file of Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai.

For Petitioner : Mr.G.Murugendran
For Respondent : Mr.N.P.Kumar,
Government Advocate (Crl. Side)



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COMMON ORDER

The petitioners arrested and remanded to judicial custody in connection with C.C.No.524 of 2022 for offence under Sections 8(c), 20(b)(ii)(C), 28 & 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, on the file of the Principal Special Court under EC & NDPS Act, Chennai, seek bail.

2.For the sake of convenience and clarity, the petitioners are referred to as accused, as per their rank, in the complaint.

3.Case of the prosecution is that based on specific information, on 08.01.2022 the NCB Officials seized 369 kgs of ganja in possession of three persons namely Mathiyazhagan, Prakash and Viji (A1 to A3) along with two vehicles namely Mahindra Bolero bearing Reg.No.TN-72-AV-4700 and Maruti Swift vehicle bearing Reg.No.TN-10-AL-1816 at Karanodai Toll Plaza, Chennai in presence of two independent witnesses. In this connection, the said three persons arrested on 09.01.2022 for contravention



of Sections 8(c), 20(b)(ii)(C), 28 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985. Based on the confession of A1, A2 & A3, the respondent alerted their counterpart in Trichirapalli who went to Hotel Udaya Udipi and confirmed the presence of other accused through the hotel staffs, thereafter they rounded up, summons served, they appeared before the respondent, gave statement under Section 67 of NDPS Act, thereafter arrested. In this case, totally ten persons are facing trial in C.C.No.524 of 2022 for possession, concealment and smuggling of 369 kgs of ganja for offence under Sections 8(c), 20(b)(ii)(C), 28 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985.

4.The learned counsel appearing for A3 submitted that on 08.12.2021, A3 was at Melmaruvathur to visit his sister who was sick, while he was returning back to Madurai. A2 who hails from the native of A3, called and requested A3 to arrange a car for emergency at Nellore. On his request, A3 accompanied by A2 in his car bearing Reg.No.TN-10-AL-1816 reached Nellore where A2 met A1 who is unknown to A3. Thereafter, A3 was asked to return back to Chennai while reaching Karanodai Toll Plaza, he was



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intercepted by the respondent. Such being the position, it is projected as though A3 escorted transportation and smuggling of contraband from the State of Andhra Pradesh. A3 and his vehicle searched, but no contraband seized. The learned counsel further submitted that A3 had no knowledge about concealment of contraband in the vehicle of A1 until seizure of contraband made in Karanodai Toll Plaza. Mere allegation of escorting cannot be a basis nor be a ground for arresting A3. There is nothing to confirm or substantiate, A3 had knew the activities of other accused. Further, there must be some iota of material to show, A3 had prior knowledge of concealment of seized contraband. In this case, the respondent completed investigation, filed complaint on 06.07.2022, taken on file and assigned C.C.No.524 of 2022. In the complaint, the prosecution unable to produce even any single piece of evidence to prove A3 had prior knowledge of the contraband seized. The respondent proceeded against A3 only on the statement of A1 & A2 which is not proper.

5.The learned counsel further submitted that when A3 filed earlier bail application in Crl.O.P.No.3892 of 2023, the respondent objected A3



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involved in similar cases in Crime No.116 of 2019 on the file of NIB, CID and Crime No.772 of 2017 on the file of Karur Town Police. Karur Town Police case is a accident case, A3 is not involved and with regard to Crime No.116 of 2019 on the file of NIB, CID, father name is different. In support of his submission, the learned counsel for A3 relied on the decision of the High Court of Orissa in ***Kishore Bira v. State of Odisha in BLAPL No.629 of 2021*** wherein it is specifically held that in order to make the possession illicit, there must be a conscious possession which requires mental element. In the absence of any seizure, Section 20 is not attracted. He further submitted that A3's first bail application in Crl.O.P.No.15069 of 2024 was dismissed by this Court on 07.07.2022 recording that A3 was found in possession of contraband and also observing that Section 37 is against A3. The second bail petition filed in Crl.O.P.No.19487 of 2022 was dismissed by order dated 30.08.2022 citing there is no change in circumstances. The third bail application in Crl.O.P.No.3892 of 2023 was dismissed on 08.03.2023 directing the trial Court to complete the trial within six months. At that point of time, the trial was pending and only two witnesses examined. The prosecution relied on CDR particulars connecting A3 to A1,



however Section 65B certificate not produced. The fourth bail petition in Crl.O.P.No.25173 of 2023 dismissed on 13.12.2023 on the objection by the prosecution, A3 failed to cross examine the witnesses before the trial Court. And he is not co-operating with the trial.

6.He further submitted that the complaint filed as early as on 16.12.2022, charges framed only on 26.07.2023, thereafter, from 16.12.2023 to 20.02.2025, the prosecution could examine only 12 witnesses which indicates the failure of prosecution in producing witnesses in a time bound manner, further, the delay is due to slackness of prosecution and A3 cannot be blamed for not cross examining the witnesses. In the case of ***Kushi Ram @ Happy v. State of Punjab in CRM-M-12940 of 2021***, the High Court of Punjab & Haryana granted bail to the petitioner therein finding that the petitioner is in confinement for 2 years and 11 months and only 7 seven witnesses examined till date. He further submitted that co-accused A2 approached the Hon'ble Apex Court in SLP.Crl.No.10496/2024, the Hon'ble Apex Court directed the trial Court on 04.10.2024 to complete the trial within a period of three months. Further, A2 granted bail by this Court in



Crl.O.P.No.5798 of 2025 on 24.03.2025. Now, the case is at the stage of cross examination of PW2 along with 12 prosecution witnesses. Hence, considering A3's prolonged incarceration and co-accused granted bail, twin condition under Section 37 is satisfied and A3 may be granted bail.

7.The learned counsel appearing for A5 submitted that A5 earlier filed bail application in Crl.O.P.No.8836 of 2024 and this Court by order dated 13.06.2024 dismissed bail application and directed the trial Court to complete the trial as expeditiously as possible preferably within a period of four months from the date of receipt of the copy of that order. He further submitted that the Hon'ble Apex Court in S.L.P (Crl.)No.9892 of 2024 had directed the trial Court to complete the trial within a period of four months from 13.06.2024. In this case, A5 not engaged any Advocate, but the trial Court proceeded with trial, framed charges and examined PW1. When A5 not defended by any counsel, the trial Court ought to have appointed legal aid counsel and ensured that A5 is defended properly. But the trial Court mechanically issued summon to the witnesses and examined them are in clear violation of Article 21 & 39A of Constitution of India. Now A5 filed



reopen and recall petition before the trial Court in Crl.M.P.No.11888 of 2024 on 09.10.2024 which was allowed. But without completing the examination, the trial Court moved to the next stage of questioning under Section 313 Cr.P.C. Thus, the trial Court failed to follow the direction of this Court as well as Hon'ble Apex Court to complete the trial within a time frame.

8.In support of his submissions, the learned counsel for A5 relied on the decision of the Hon'ble Apex Court in *Sujit Tiwari v. State of Gujarat and another* reported in (2020) 13 SCC 447 and *Tofan Singh v. State of T.N* reported in 2020 SCC OnLine SC 882 and *Moti Ram v. State of M.P* reported in (1974) 4 SCC 47 and *Rabi Prakash v. State of Odisha* reported in 2023 SCC OnLine SC 1109. Making the above submissions and relying upon the decision, the learned counsel prayed for bail to A5.

9.The learned counsel appearing for A9 submitted that one Viji was driving Bolero Van and one Mathiyazhagan and Prakash/A3 escorting Bolero which was proceeding to Trichirapalli via Chennai. In Trichirapalli,



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a group was waiting to receive the contraband and A9 is one among the group at Trichirapalli. This is the case projected against A9. It is an admitted case that all seizure made from Bolero van when the vehicle intercepted at Karanodai Toll Plaza and no seizure made from Udaya Udipi Hotel at Trichirapalli but projected as conspirators and abettors. A9's father R.V.K.Sekar is A4 in this case. It is projected as though A9 and his father/A4 stayed at Raj Park Hotel, Koyembedu and A9 received money from his father, went to State of Andhra Pradesh and purchased contraband. A9 is roped on the pretext that he had regular contacts through mobile with other accused and his bank statements confirm that there have been transfer of money from A9's account to other accused and also withdrawal of cash at the relevant point of time. He further submitted that in this case, ten witnesses examined, cross examination is in progress and so far none of witnesses have spoken anything against A9 and he is in prison for more than three years. A9 earlier moved a bail application in Crl.O.P.No.6201 of 2023 and this Court by order dated 13.06.2024 dismissed the same for the reason of gravity of offence is serious. Further, the Hon'ble Apex Court and this Court directed the trial Court to complete the trial within four months. The



second bail application in Crl.O.P.No.21099 of 2024 dismissed on 26.09.2024 recording that quantity of contraband involved is commercial and there is no change in circumstances. Now the petitioner is in prison, the trial is moving at snail pace and no witnesses spoken against A9 and further incarceration of A9 would amount to pre-trial conviction. Hence, he prayed for bail.

10.The learned Special Public Prosecutor appearing for respondent in all petitions filed counter and submitted that in this case, A1 to A3 was travelling from Andhra Pradesh to Trichirapalli via Chennai in two vehicles namely Mahindra Bolero bearing Reg.No.TN-72-AV-4700 and Maruti Swift vehicle bearing Reg.No.TN-10-AL-1816, when they were near Karanodai Toll Plaza, the said two vehicles intercepted, searched, they were found to be in illegal possession of 369 kgs of ganja and they were arrested on 09.01.2022, their confession statements recorded. On getting information about Supplier and Financier of seized contraband and the leader of drug trafficking group was R.V.K.Sekar/A4 and Selvam, both along with five persons assembled in Udaya Udipi Hotel at Tiruchirapalli to receive the



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consignment, the respondent informed their counterpart at Tiruchirapalli who went to the hotel, found A4 to A10, served summons with a direction to report before NCB Chennai office on 09.01.2022. The accused appeared before the respondent. During investigation, bank transactions, regular phone calls between all the accused revealed, it is a well organized group wherein all the persons connived, sourced, concealed and smuggled contraband, which was intended to be smuggled to Sri Lanka, from there to international market. Thus, a big group involved in this case. Further, A3, A5 & A9 (petitioners herein) are having previous cases of similar nature. The call details and bank statements of the accused collected confirmed the close contact with each other and joined together and executed the plan as designed.

11.He further submitted that in this case, A2 released on bail finding that he suffered from cancer and all the other accused are still confined in prison, hence, the other accused cannot seek parity for the bail granted to A2. The Hon'ble Apex Court in SLP.Crl.No.10496/2024 gave three months time on 24.07.2025 to conclude the trial. Due to non cooperation of the



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accused, the trial could not be completed. As regards the prosecution is concerned, all the twelve witnesses (PW1 to PW12) examined, closed the prosecution on 20.02.2025, thereafter accused questioned under Section 313 Cr.P.C. Now, belatedly recall petition filed to recall PW5 to PW9. It is for the accused to cross examine the witnesses before the trial Court and complete the trial, instead they are filing bail application in succession before this Court as well as the Hon'ble Apex Court and projecting as though the delay is on the side of prosecution. Hence, he prayed for dismissal.

12.This Court considered the rival submissions and perused the materials available on record.

13.In this case, there are totally ten accused, all arrested and remanded to judicial custody. All the accused are having antecedents. A1 to A3 found transporting contraband of commercial quantity of 369 kgs near Karanodai Toll Plaza while they were carrying, they were intercepted, searched, seized the contraband, prior to it some of the accused gone to



Andhra Pradesh, sourced the contraband and came back by train and flight.

All the accused are in constant touch with each other, confirmed by the electronic evidence. The contraband consignment moved from Andhra Pradesh to Chennai from there to Tiruchirapalli, thereafter, via sea to Sri Lanka. Some of the accused assembled in Udaya Udipi Hotel at Tiruchirapalli awaiting contraband. By swift action of respondent, the accused who were waiting to receive the contraband for onward smuggling to Srilanka were rounded, enquired and arrested. Now, all accused are facing trial for the offence of possession of contraband of commercial quantity, smuggling, illegal transport, abetment and criminal conspiracy.

14.In this case, the prosecution completed examination of 12 witnesses on its side, closed prosecution accused questioned under Section 313 Cr.P.C, but accused not cross examined the prosecution witnesses, shown any inclination or interest to complete the trial. On the other hand, filing one petition or other before this Court as well as before the Hon'ble Apex Court, thus protracting the progress of trial. Now recall and reopen petitions filed and allowed and the case is pending for cross examination of



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witnesses and thereafter arguments to be advanced.

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15.The Hon'ble Apex Court in SLP.Crl.No.10496/2024 granted three months time to complete the trial and this Court in Crl.O.P.No.8836 of 2024 by order dated 13.06.2024 in C.C.No.524 of 2022. If the accused cooperate, the trial itself can be completed without any further delay much before the time fixed. The delay is attributed due to the conduct of accused and not for any other reason.

16.Considering the stage of the case and gravity of offence and antecedents of the accused, this Court is not inclined to grant bail to A3, A5 & A9 (petitioners herein). Accordingly, these Criminal Original Petitions are dismissed.

20.08.2025

Speaking Order/Non Speaking Order

Index : Yes/No

Neutral Citation: Yes/No

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To

1.The Intelligence Officer,
Union of India,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai – 77.

2.The Public Prosecutor,
Madras High Court.



CrI.O.P.Nos.9762, 10114 & 13947 of 2025

M.NIRMAL KUMAR, J.

vv2

PRE-DELIVERY ORDERS IN
CrI.O.P.Nos.9762, 10114 & 13947 of 2025

20.08.2025