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CrI.O.P.No.10372 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.06.2025
PRONOUNCED ON : 01.07.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.10372 of 2025

Mohammed Yusuf

... Petitioner

Vs.

Union, Rep. By
The Junior Intelligence Officer,
Narcotic Control Bureau,
Chennai Zonal Unit,
Chennai.
R.R.No.24 of 2023.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023 praying to enlarge the petitioner on bail in
C.C.No.203 of 2024 in R.R.No.24 of 2023 in NCB F.No.48/1/13/2023-
NCB/MDS on the file of the respondent Police.

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

For Respondent : Mr.N.P.Kumar,
Special Public Prosecutor



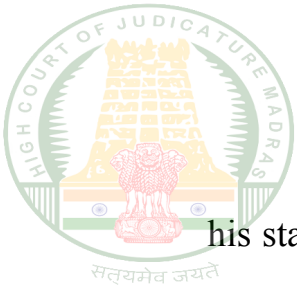
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ORDER

The petitioner arrested and remanded to judicial custody on 25.02.2025 for offence punishable under Sections 8(c) r/w 21(c), 22(c), 28 & 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985 in connection with C.C.No.203 of 2024 on the file of the II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai, seeks bail.

2.Learned counsel for the petitioner submitted that in this case, the petitioner falsely arrayed as accused, solely on the confession of A1 who was in possession of narcotics of intermediate quantity. Except A1 confession, there is no other material against the petitioner. Three days after the arrest and confession of A1, other accused A2 to A7 arrested who are all Nigerians. From them, contraband seized which is of commercial quantity, hence a case of commercial quantity projected against the petitioner and other accused. He further submitted that the Hon'ble Apex Court in ***Tofan Singh v. State of Tamil Nadu*** reported in ***(2013) 16 SCC 31*** held that merely on the confession of co-accused, a person cannot be prosecuted and



his statement under Section 67 of NDPS Act, is akin to Section 27 of Indian

Evidence Act to prove recovery fact alone and nothing more. Further,

Tofan Singh case (cited supra) consistently followed by the Hon'ble Apex

Court in many number of cases, recently in ***Sharik Khan v. NCB in SLP***

(Crl) Diary No.48232 of 2023 and in ***State by (NCB) Bengaluru v.***

Pallulabid Ahmad Arimutta & Anr., in SLP (Crl.) No.242 of 2022.

3.The learned counsel further submits that in this case, Matheen Ahmed/A1 was granted bail by this Court on 23.01.2025 in Crl.O.P.No.28956 of 2024 from whom there is some recovery. As far as the petitioner is concerned, there is no recovery, hence the petitioner is entitled for bail on the ground of parity. In support of his contentions, the learned counsel for the petitioner relied on the decision of the Hon'ble Apex Court in ***Union of India v. Mohammed Afzal in SLP (Crl) No.1569 of 2021*** and ***Vijay Singh v. The State of Haryana*** reported in ***2023 SCC OnLine 1235.***



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4.The learned counsel further submits that till filing of complaint in C.C.No.203 of 2024, the petitioner was not arrested, hence subsequent arrest of the petitioner, is unwarranted and unnecessary. For this point, the learned counsel relied on the decision of the Hon'ble Apex Court in *Musheer Alam v. State of Uttar Pradesh & Anr* reported in **2025 SCC OnLine SC 116**. He also placed reliance on the decision of Hon'ble Apex Court in *Prabir Purkayastha v. State (NCT of Delhi)* reported in **(2024) 3 SCC (Cri) 573** and *Vihaan Kumar v. State of Haryana & Anr.*, reported in **2025 SCC OnLine SC 269** for the principle that there is a significant difference between the phrases “reasons for arrest” and “grounds for arrest”. Added to it, the arrest memo of the respondent proves it is only with formal wordings and there is no justifiable reason or satisfaction to justify arrest.

5.He further submits that A1 granted bail by this Court on 23.01.2025 in Crl.O.P.No.28956 of 2024, A6 granted bail by this Court on 27.03.2025 in Crl.O.P.No.1205 of 2025 and A7 granted bail by this Court on 26.02.2025 in Crl.O.P.No.3351 of 2025. In this case, the petitioner was arrested and remanded to judicial custody on 25.02.2025 and he is ready to abide by any



stringent condition that may be imposed by this Court, hence prays for bail.

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6.The learned Special Public Prosecutor appearing for the respondent filed counter, strongly opposed petitioner's contention and submitted that the above case registered on getting secret information that the petitioner handed over plastic bag containing cocaine and MDMA drug to A1 near Begum Sahib Street, Royapettah directing A1 to deliver the same to another person who will contact A1 around 09.30 hours at Circle Stationery Department at shop No.250 Peters Road, Royapettah, Chennai. The respondent recorded the information, informed superior officers, went to occurrence place, enlisted two private witnesses, explained to them about the case, thereafter kept watch over the place, identified A1. After ten minutes, when A1 was about to leave, he was apprehended, questioned and A1 produced 7.45 grams of cocaine and 7.20 grams of MDMA pills. After following Section 50, the contrabands seized. At that time, A1 revealed the person who handed over the drugs i.e., the petitioner and also gave petitioner's mobile number. The mobile number and contact details disclosed by A1 verified, thereafter search conducted in the house of A1.



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The petitioner gave a slip and he was unable to be apprehended. On getting further information from A1, A2 to A7 apprehended, from them contraband of commercial quantity seized. From A2, 203 grams of Amphetamine and 46 grams of MDMA pills and from A3, 204 grams of Amphetamine and 46 grams of MDMA pills seized and from A4, 46 grams of MDMA pills, were seized. In this case, accused gave confession statements, pursuant to which, contraband of commercial quantity seized. During investigation it was found that the petitioner purchased drugs from Bangalore and Goa and sold through his associate A1. The petitioner used to purchase the drugs from his friends A3, A4 & A5 who are all residing in Bangalore. The petitioner gave his residence address as 6th Cross Street, Kamarajapuram, Sembakkam, Kanchipuram District but this address was not traceable. On the other hand, the petitioner was having regular contact with other accused through his mobile sending and receiving instructions through Whatsapp, Telegram and other applications. Since the petitioner was absconding and investigation was to be completed within stipulated period, charge sheet filed on 174th day on 26.02.2024 by way of e-filing. Since the petitioner was absconding, the case against him split up and C.C.No.203 of 2024



assigned.



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7.He further submitted that since there was an information that the petitioner was abroad hiding himself, a communication was sent to the Regional Passport Office, Chennai and to the Immigration Authorities to issue Look Out Circular against the petitioner. Based on the request, Look Out Circular issued. On 24.02.2025 the respondent received a message from the Bureau of Immigration, Mumbai Airport, petitioner arrived from Singapore and they have detained and handed over the petitioner to Sahar Police Station, Mumbai Airport. On receipt of information, the respondent had gone to Sahar Police Station, Mumbai Airport, received the LOC subject, served the petitioner with Section 67 notice directing him to appear before the Investigating Officer on 24.02.2025. Thereafter, the petitioner appeared and gave his statement confirming that the petitioner conspired with A1 for illicit trafficking of 7.45 grams of cocaine and 7.20 grams of MDMA pills and handed over the same to A1. Further to the arrest of A1, in a follow up measure, 407 grams of Amphetamine and 138 grams of coloured MDMA pills recovered at Omni Bus Stand, Koyambedu, Chennai



and 310 grams of MDMA pills and 1.008 kgs of Methamphetamine recovered in Bangalore on 05.09.2023 from A2 to A7.

8.It is further submitted that in this case, the petitioner is the main person to escape from the legal action, petitioner absconded, due to sustained investigation, petitioner was arrested on 25.02.2025. He further submitted that further investigation petition in Crl.MP.No.1229 of 2025 filed and permission granted on 11.03.2025. The petitioner's mobile phone contained digital evidence which forwarded to forensic examination to find out the petitioner's contacts and to retrieve the deleted messages. He further submits that arrest memo served to the accused under acknowledgement on 25.02.2025 and intimation of arrest sent to his father through speed post. Further, the petitioner is involved in yet another case which is being prosecuted by NIBCID in the year 2020 and the case in C.C.No.80 of 2020 is pending for intermediate quantity. Further, the petitioner is involved in a case in Crime No.13 of 2023 which is investigated by NCB, Chennai. It is also informed that one more case in NDPS Act pending against the petitioner for investigation by Selaiyur Police. Thus, the petitioner's



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contention that there is no seizure of contraband from the petitioner, hence, he is entitled for bail, is not sustainable. The facts of the case discloses that the petitioner played an active role along with other accused in sourcing narcotic drugs and also engaged others in smuggling and selling of the same. The petitioner has got wide connection with foreign nationals which has got international ramification in sourcing of contraband. Hence, the petitioner's role is being investigated by the respondent in the further investigation. In fact the petitioner could be arrested only when he came back to India from Singapore by effecting LOC. The above case attracts Section 37 of NDPS Act and the petitioner's conduct proves twin condition under Section 37 against him, hence not entitled for bail.

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

10.In this case, there are totally eight accused, of whom petitioner is A8. A1 and A8 are Indians and other accused are all Nigerians who are settled in Bangalore for the present. On getting secret information, the



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Junior Intelligence Officer/respondent forwarded the same to his Superior Officer. After getting approval, the respondent proceeded to Circle Stationery Store, Royapetah along with a team, secured independent witnesses, kept watch over the area, at that time found A1 waiting there for someone, after ten minutes, when A1 was about to leave the shop, he was apprehended and questioned A1. A1 produced cocaine and MDMA pills of intermediate quantity. Thereafter following Section 50, he was searched, followed by a search in his house, seizures made, Section 67 notice served. The statement of A1 confirms the active role played by the petitioner and the petitioner is the person who few minutes before handed over the narcotics/drugs to A1 who was to be handed over to the person who comes in contact with him. Thus, it is the petitioner who handed over the contraband to A1. Further, A1 gave mobile phone and other details of the petitioner. Furtherance to the information received from A1, the respondent arrested A2 to A7 who are all Nigerians who are possessing narcotics. They confessed sourcing of contrabands from abroad and selling to the petitioner who is one of the main contact person in India. Further, A2 to A7 used to sell these narcotics in the State of Karnataka, State of Goa and other places.



For Tamil Nadu, it was through the petitioner. The petitioner absconded unable to be found in the address given.

11.In this case, there have been seizures which is of commercial quantity. Further, the involvement of Nigerians gives an angle for international ramification and detailed probe is required. In this case, initially the complaint filed on 26.02.2024 showing petitioner as absconding accused, thereafter LOC issued, arrested the petitioner on 25.02.2025 when he came from Singapore landed in Mumbai.

12.In view of the above, the petitioner's claim of parity for grant of bail similar to other accused would not arise. The petitioner, an absconding accused was arrested after issuance of LOC. Likewise, non seizure of contraband alone, would not entitle bail to the petitioner. The mobile phone seized contained lot of digital evidence confirming the petitioner's active role in the above offence with other accused. Apart from other charges, the petitioner is facing charges of abetment and conspiracy. Added to it, further investigation is in progress.



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WEB COPY 13.In view of the above, this Court finds no reason to entertain the bail petition. Hence, this Criminal Original Petition stands dismissed.

01.07.2025

Speaking Order/Non Speaking Order

Index : Yes/No

Neutral Citation: Yes/No

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To

- 1.The II Additional Special Court
for Exclusive Trial of Cases under NDPS Act,
Chennai.
- 2.The Junior Intelligence Officer,
Narcotic Control Bureau,
Chennai Zonal Unit,
Chennai.
- 3.The Public Prosecutor,
Madras High Court.



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M.NIRMAL KUMAR, J.

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PRE-DELIVERY ORDER IN
CrI.O.P.No.10372 of 2025

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