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Crl.OP.No.10545 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2025

CORAM

THE HONOURABLE MR JUSTICE **K.RAJASEKAR**

Crl.O.P.No.10545 of 2025

Zainabbu Namuddu

... Petitioner

Vs.

Union of India through
Jr.Intelligence Officer,
Narcotic Drugs Control Bureau,
Chennai Zonal Unit,
Chennai-600 077.

... Respondent

PRAYER : Criminal Original Petition filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, to enlarge the petitioner/accused 3 on bail in
CC.No.277 of 2024 pending trial on the file of the learned II Additional
Court for NDPS and EC Act Cases, Chennai.

For Petitioner : Mr.M.Chandru

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



ORDER

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The petitioner, who was arrested and remanded to judicial custody on 03.12.2022 seeking bail in connection with the case in NCB.F.No.48/1/15/2022-NCB/MDS, registered for the offence under Sections 8(c) r/w Section 21(c), 23(c), 28 and 29(1) of NDPS Act.

2. The case of the prosecution is that on a specific information, the Officers of the respondent seized 2 kgs of Cocaine from black-coloured trolley suitcase belonging to a South African National viz, Bruce Henri Van Laun on 29.11.2022 at the arrival hall of the Anna International Airport, Chennai; that a statement under Section 67 of the NDPS Act was recorded from him and on his confession it was revealed that the petitioner was also involved in the offence and the said Bruce Henri Van Laun(A1) had brought Cocaine into India for the petitioner's boy friend, who in turn was to distribute it at to various places in India.

(ii) It is further case of the prosecution that the petitioner's boy friend and petitioner were arrested on the information of the first accused and that



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on the search conducted by the respondent at the rented house of the petitioner's friend Accused No.2. 980 gms of Amphetamine in different colours and 40 grams of Cocaine from the car of the petitioner, were seized; that the main accused is one Nelson @ Abuchi, who had supplied the drugs from South Africa on many occasions earlier; and thus committed the aforesaid offences.

3. The learned counsel appearing for the petitioner would submit that the petitioner is in custody from 03.12.2022; that the trial is not likely to be completed in the near future; that therefore, considering the period of incarceration, the rigors of Section 37 of the NDPS Act would not be applicable and relying upon the Judgment of the Hon'ble Supreme Court in ***Rabi Prakash vs. State of Odisha*** reported in 2023 SCC Online SC 1109 and ***Ankur Chaudhary vs. State of Madhya Pradesh*** in Special Leave to Appeal (Crl).No.4648 of 2024, sought for bail.

4. The learned Government Advocate (Crl.Side) however, vehemently opposed the grant of bail stating that the petitioner is a foreign national and if she is released on bail, she would not be available for the trial and further



submitted that there is no change in the circumstances after the dismissal of the earlier bail application and sought for dismissal of the bail petition.

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5. The petitioner is in custody from December, 2022 charged for the offence under Section 8(c) r/w 21(c), 28 and 29 of NDPS Act, however the trial has not been progressed and it is not likely to be completed in the near future. This Court earlier has considered the same point while granting bail to the A2-petitioner's boy friend in Crlop no.4987 of 2025 dated 17.03.2025 and by observing the orders of the Hon'ble Apex Court and the relevant paragraph of the order passed by this court in Crl.OP.No.4987 of 2025 reads as follows:

“8. In this regard, the Hon'ble Supreme Court in ***Rabi Prakash vs. State of Odisha*** reported in 2023 SCC Online SC 1109, 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



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Crl.OP.No.10545 of 2022

embargo created under Section 37(1)(b) of the NDPS Act.”

9. Further, in *Ankur Chaudhary vs. State of Madhya Pradesh* in Special Leave to Appeal (Crl).No.4648 of 2024, the Hon'ble Supreme Court had 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, conditional liberty overriding the statutory embargo created under Section 37(1)(b) of the NDPS Act may, in such circumstances, be considered”

10. Considering the fact that the petitioner is in custody from December 2022, the fact that the trial is pending and charges are yet to be framed and taking note of the aforesaid observations of the Hon'ble Supreme Court, this Court is of the view that further custody of the petitioner is not required for the purpose of investigation and is inclined to grant bail to the petitioner with certain conditions, since the petitioner is a South African National.”



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6. Considering the fact that this Court already granted bail to the petitioner's boy friend, who is Accused No.2 and the allegation against this petitioner is that, she accompanied the Accused No.2 to the Airport and no recovery effected from the petitioner herein, also considering the prolonged incarceration due to non-conclusion of the trial, I am inclined to grant bail to the petitioner with certain conditions, since the petitioner is a Uganda National.

7. Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** with two sureties each for a like sum to the satisfaction of the learned *II Additional Court for NDPS and EC Act Cases, Chennai*, and on further conditions that:-

[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 not commit any offences of similar nature;



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Crl.OP.No.10545 of 2024

[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 Judicial 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 229A IPC.

[g] Since the petitioner is a South African National, the respondent shall communicate the order of granting bail, to the concerned Registration Officer appointed under Rule 3 of Registration of Foreigners Rules, 1992 as per the decision of the Hon'ble Supreme Court in Frank Vitus vs. Narcotics Control Bureau and others in Crl. Appeal Nos.2814-2815 of 2024 dated



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Crl.OP.No.10545 of 2025



06.01.2025.

[h] the petitioner shall appear for every hearing before the Trial Court regularly without fail. If any deviation in complying the conditions, bail granted to the petitioner shall stand cancelled;

18.09.2025

Vv

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.



Crl.OP.No.10545 of 2022

To
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1. The II Additional Court for NDPS and EC Act Cases,
Chennai,
2. The Jr.Intelligence Officer,
Union of India,
Narcotic Drugs Control Bureau,
Chennai Zonal Unit,
Chennai-600 077.
3. The Central Prison,
Puzhal.
4. The Special Camp for the Foreigners,
Chennai.
5. The Public Prosecutor,
High Court of Madras.



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Crl.OP.No.10545 of 2025

K.RAJASEKAR, J.

Vv

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