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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.07.2025
PRONOUNCED ON : 18.07.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.12396 of 2025

Rilwan @ Rizwan ... Petitioner

Vs.

Union rep. by
The Junior Intelligence Officer,
Narcotic Control Bureau,
Chennai Zonal Unit,
Chennai.
R.R.No.21 of 2023. ... Respondent

PRAYER: Criminal Original Petition is filed under Section 483 of BNSS, to enlarge the petitioner on bail in C.C.No.129 of 2024 in R.R.No.21 of 2023 in NCB F.No.48/1/09/2023-NCB/MDS on the file of the respondent police.

For Petitioner : Mr.M.G.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 16.07.2023, for the offence punishable under Sections 8(c) r/w. 22(c), 23(c), 24, 28 & 29(1) of NDPS Act in connection with R.R.No.21 of 2023 on the file of the respondent, seeks bail.

2.The contention of the learned counsel for the petitioner is that the petitioner was arrested primarily on the confession of co-accused. Admittedly, there is no seizure of any contraband from the petitioner. Further, the petitioner does not know the other accused and there is no iota of evidence to show that the petitioner conspired with the other accused in commission of the offence. He would submit that the mere confession of co-accused would not be sufficient to array a person as accused and in the case of ***Tofan Singh vs. State of Tamil Nadu*** reported in ***(2021) 4 SCC 1***, the Apex Court had given an authoritative pronouncement stating that statement under Section 67 of NDPS Act is limited to the extent of any recovery of materials which is akin to Section 27 of the Indian Evidence Act. This has been further confirmed by the Apex Court in the case of ***Shairk***

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Khan vs. NCB [CDJ 2024 SC 179]. He would further submit that in this case, the alleged seizure is from A1 to A5 alone. Further, in the case of State by ***NCB Bengaluru vs. Pallulabid Ahmad Arimutta and another [(2022) Livelaw SC 63]***, the Apex Court considered that mere confession disclosing that the petitioner therein had financed for purchase of contraband would not be sufficient. In that case, it had also held that the CDR details utmost can be considered for constant touch between the accused and what was the conversation, there is not proof and merely on surmises and conjunctures, a person cannot be made as an accused. He further submitted that requirement under Articles 22(1) and 22(5) of Constitution of India is that grounds of arrest must be communicated in writing which is mandatory but in this case it has not been done so.

3.The learned counsel further relied upon the decision of the Apex Court in the case of ***Satender Kumar Antil vs. Central Bureau of Investigation*** reported in ***(2022) 10 SCC 51***, wherein the Apex Court held that prolonged incarceration and inordinate delay in commencement of trial would entitle the accused for bail. In the case of ***Naeem Ahmed alias Ahmed vs. Government of NCT of Delhi [(2023) 1 SCR 1061]***, the Apex

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Court held that the petitioner therein had spend 1 year 11 months in custody and investigation is complete but framing of charges is yet to be done, thus conclusion of trial will take time and hence, the petitioner was entitled for bail. He further submitted that in this case the petitioner is in prison from 16.07.2023. Investigation completed, charge sheet filed on 28.11.2024 but taken on file on 13.12.2024 and the case is pending in C.C.No.129 of 2024 without any progress. Further, K.Sathik/A4 was granted bail by this Court in Crl.O.P.No.23629 of 2024 dated 19.10.2024 and Askar/A3 was granted bail by this Court in Crl.O.P.No.3771 of 2025 dated 25.03.2025. The petitioner in fact is better placed of them. Hence, prayed for bail.

4..The learned Special Public Prosecutor filed his counter and submitted that the petitioner earlier filed a bail application in Crl.O.P.No.13618 of 2024 and the same was dismissed on 05.07.2024 followed by another bail application in Crl.O.P.No.30019 of 2024 which was dismissed on 13.02.2025 and this is the third bail application. There is no change of circumstances. He would submit that in one of the earlier dismissal, this Court directed the Trial Court to complete the trial as expeditiously as possible within a period of three months. In this case, there

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are several accused who are alternatively putting spokes by filing one petition or other, some not engaging counsel and protracting the proceedings. The accused are the reason for the delay.

5.The learned Special Public Prosecutor further submitted that based on a specific information, the officers of NCB, Chennai seized 1 Kg of white coloured crystalline substance believed to be Amphetamine from the conscious possession of Raghumatulla vide Mahazar dated 13/14.07.2023 drawn outside Tambaram Bus Stand, opposite to Tambaram Railway Station, Chennai. Thereafter, Raghumattula was served with summons dated 14.07.2023 U/s 67 of NDPS Act 1985, as amended, to appear before the Intelligence Officer at the NCB office at Ayapakkam, Chennai immediately for further enquiry. During enquiry Raghumattula disclosed that he was always used by Rilwan @ Rizwan and Askar for testing the quality of samples given to him as he was a consumer of meth (ice) and based on his confirmation Rilwan @ Rizwan and Askar will proceed with the transaction of meth (ice) and further hand over the entire procured contraband for transporting and delivery to Bairos Khan at designated place for which he is paid Rs. 10000/- for each transaction. In this case the sample of contraband

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was brought by Sadik Ali and handed to him at Mannady through Rilwan @ Rizwan in the presence of Sadik Ali and Askar. After good quality confirmation, Rilwan @ Rizwan paid Rs.10 Lakhs for contraband and meanwhile Sadik Ali brought | Kg meth(ice) and exchanged the contraband and money. The 1kg meth (ice) was handed over to him and instructed to deliver to Bairos Khan at SP Pattinam. During the process of transportation he was intercepted at Tambaram Railway Station. On further enquiry the whereabouts of two persons namely Rilwan Rizwan and Askar in the crime revealed and both were summoned on 14.07.2023 to appear before the Intelligence Officer at the NCB office at Ayapakkam. Chennai. During enquiry Rilwan reveals he contacted Sadik Ali for arranging meth (ice) to be delivered to Bairos Khan at SP Pattinam. Sadik Ali as planned reached Chennai on 12.07.2023 and met G.Gani and collected sample for quality check which was done at Mannady through Ragumatullah in the presence of Askar and Sadik Ali. After confirming the good quality, Rilwan handed over 10 Lakhs to Sadik Ali and collected 1 kg of meth (ice) and handed over the contraband to Ragumatullah for delivery to Bairos Khan at SP Pattinam. After completion of the transaction, Rilwan again contacted Sadik Ali who left Chennai, asked him to return to Chennai and arrange another 1kg of

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meth(ice) for which Sadik Ali returned to Chennai. Based on further revelation by Rilwan a house search was conducted at the residence of G. Gani at House No. 900/2, 9th Street (Ground Floor) S.A Colony, Vyasarpadi. Chennai, Tamilnadu-600039 on 15.07.2023 where 900 gms of Amphetamine was seized vide Mahazar dated 15.07.2023 and summon was issued to Gani to appear before Intelligence Officer, NCB, Chennai. The test-report from Custom House Laboratory, Chennai in respect of sample S1 and S3 dated 09.08.2023 confirms that the totally seized 1.9 Kgs of white crystalline powder substance is Methamphetamine Hydrochloride. During the course of Investigation, requisition letters dated 23.08.2023 and 29.09.2023 sent to the concerned service providers seeking CDRs and CAF details along with 65B IEA certificates for the mobile numbers 7904801448 & 9551697207 (Ragumathulla), 8056284292 & 9342946766 (Mohammed Rilwan), 8122907711& 9042044200 (Gani), 8056411014& 7299294892 (Askar), 9894423526 (Sathik Ali), 8925031564 (Kaja@Kili@Dheen), 6381317166 (Bairos Khan) for the period from 01.01.2023 to 15.07.2023. From the CDR Analysis it is revealed that the accused persons in this case have frequent contacts with each other continuously participated in purchase, smuggling of contraband. Hence, opposed the bail.

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6.Considering the submissions made and on perusal of the materials, it is seen that in this case, Methamphetamine of 1.900 kgs seized which is of commercial quantity. The contraband was intended to be smuggled out to Srilanka. The petitioner sourced the contraband through his contacts. He is the person behind sourcing, purchase and transportation of contraband to a buyer at Srilanka. Some of the accused are closely related. The contraband was sourced in Chennai which was intended to be taken to Rameswaram and from there, through fishing boat to be smuggled to the Srilankan contact in the high seas. Only after sustained investigation by collecting electronic evidence and other materials, the petitioner was arrested. The petitioner cannot isolate himself on the ground that there is no seizure from him. The petitioners has been a proximate person directly and through his other contacts actively participated in commission of the offence as per the materials produced. Considering the materials available in a holistic and cumulative manner, it is seen that the foundational facts are against the petitioner. The points raised by the petitioner can be considered during trial. Hence, this Court is not inclined to grant bail to the petitioner.

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7.Accordingly, the Criminal Original Petition stands dismissed.

18.07.2025

Speaking Order/Non Speaking Order
Index : Yes/No
Neutral Citation: Yes/No
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To

1.The Junior Intelligence Officer,
Narcotic Control Bureau,
Chennai Zonal Unit, Chennai.

2.The Special Public Prosecutor (ED),
Madras High Court.

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M.NIRMAL KUMAR, J.

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Pre-delivery order made in

Crl.O.P.No.12396 of 2025

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