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Crl.O.P.No.10626 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.07.2025

PRONOUNCED ON : 09.07.2025

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.10626 of 2025

Velu

... Petitioner

Vs.

Union of India rep. by
The Intelligence Officer,
Narcotics Control Bureau,
Chennai.

... Respondent

PRAYER : Criminal Original Petition filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023, to enlarge the petitioner/A3 on bail in
C.C.No.652 of 2024 pending trial on the file of the learned Principal Special
Judge for EC and NDPS Act Cases, Chennai.

For Petitioner : Mr.M.G.Martin Manivannan

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



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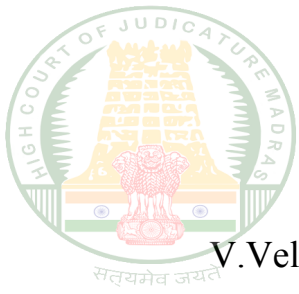


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ORDER

The petitioner/A3 facing trial in C.C.No.652 of 2024 was arrested by the respondent on 28.07.2023 for the offence under Sections 8(c) r/w. 20(b)(ii)(C), 27A, 28 and 29 of NDPS Act and hence, seeks bail.

2.The gist of the case is that on the basis of specific information, the officers of Narcotics Control Bureau, Chennai Zonal Unit, effected seizure of 432.700 Kgs. of brownish green colour dry leaves and flowering tops confirmed as Marijuana (Ganja) being transported in TATA Truck bearing Reg. No. TN-31-BD-6347 at Karanodai Toll plaza, Chennai on 24/25.07.2023 and arrested two persons namely E.Kadhar Basha (A-1) S/o Ebrahim and R.Senthil Kumar (A-2) S/o Late Raja Manikkam for their involvement in trafficking of the seized Ganja under provisions of the NDPS Act, 1985. Subsequently, information was received about other members of the drug trafficking ring namely V.Velu (the petitioner/A-3), R.Pandiyarajan (A-4) and Jalur Hussain (A-5) and thereafter, all the members of the Organisation named E.Kadhar Basha, R. Senthil Kumar,



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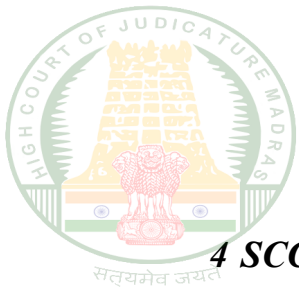
V.Velu/petitioner herein, R.Pandiyarajan and Jahir hussain, appeared for enquiry and admitted their individual guilt in procurement, possession, attempt to transport and entering into criminal conspiracy for the illicit trafficking of seized 432.700 KGs of Ganja recovered at Karanodai Toll plaza, Chennai on. 24/25.07.2023 and were placed under arrest individually on 26.07.2023, and subsequently remanded to judicial custody. One Allha Pichai (A-6) S/O Mohamed Abdhul Kadhar was traced at Ervadi near Pallivasal and during enquiry he inter-alia, admitted his individual guilt in procuring, possession, attempt to transport, financing and entering into criminal conspiracy for the illicit trafficking of seized 432.700 KGs of Ganja recovered from the abovesaid truck at Karanodai Toll plaza, Chennai on 24/25.07.2023 and was arrested on 28.07.2023. During enquiry, the petitioner inter alia revealed his detailed involvement in the attempt to transport the seized 432.700 kgs of Ganja from Andhra Pradesh to Tamil Nadu using the TATA truck vehicle bearing registration No.TN-31-BD-6347. He also handed over his mobile phone to the NCB officer along with his bank identification card. The petitioner/A3 also identified the photographs of his associates named E.Kadhar Basha, R.Senthil Kumar,



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Pandiyarajan, Jahir Hussain and Allhapitchai and also identified photographs of E.Kadhar Basha's TATA Truck registration No.TN-31BD-6347 and the photograph of the load of Ganja which had been concealed and recovered from E.Kadhar Basha's truck. These revelations of the petitioner written in Tamil by the petitioner himself in his own handwriting and he signed the same and handed it over to Mr.E.Sankara Subramanian, I.O., NCB, Chennai. Hence, the petitioner/ A-3 was placed under arrest on 26.07.2023 at 20.00 hrs. for committing offences punishable under the provisions of the NDPS Act, 1985. The petitioner alongwith other co-accused were produced before the learned Judicial Magistrate, Ponneri and subsequently remanded to judicial custody on 27.07.2023.

3.The contention of the learned counsel for the petitioner is that the petitioner is an innocent person and has been falsely implicated in this case based on the confession of the co-accused and circumstantial call records. No contraband seized from the petitioner. Further the entire case rests on the statement recorded under Section 67 of NDPS Act. He would submit that in the case of *Tofan Singh vs. State of Tamil Nadu* reported in (2021)



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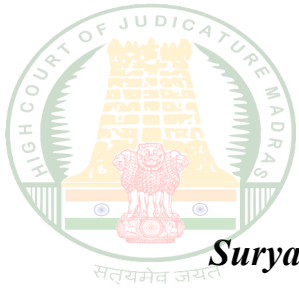
4 SCC 1, wherein the Apex Court clearly held that no evidentiary value to be attached to statement under Section 67 of NDPS Act except leading to any recovery. In this case, no recovery made on the statement of the petitioner. The above case was registered on 24.05.2023, complaint filed on 05.08.2024 and thereafter, there is no progress in the trial. The petitioner is in confinement for the past two years. The respondent for the obvious reasons not producing any witness and not progressing with the case. The petitioner is in custody for more than 613 days. The petitioner is a senior citizen aged about 63 years and a Pastor by profession having permanent resident with no criminal antecedents and the petitioner is willing to abide any condition imposed by this Court. The learned counsel further relied upon the decision of the Apex Court in the case of ***Mohamed Muslim @ Hussain vs. State (NCT of Delhi)*** reported in **2023 SCC Online SC 352**, wherein the Apex Court held that prolonged incarceration without commencement of trial will justify the grant of bail notwithstanding the rigor of Section 37 of NDPS Act. He also relied upon the decision of the Apex Court in the case of ***Satender Kumar Antil vs. CBI*** reported in **(2022) 10 SCC 51**, wherein it has been held that unreasonable and inordinate delay



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in the conduct of trial entitles the accused to seek bail. He further relied upon the decision of the Hon'ble Supreme Court in the case of ***Union of India vs. Shiv Shankar Kesari*** reported in ***2024 SCC Online SC 179***, wherein the Hon'ble Supreme Court held that prolonged pre-trial detention amounts to punishment without trial and the Courts must balance the right of the accused to a speedy trial with public interest. He also relied upon the decision of this Court in the case of ***R.Vadivel vs. Union of India rep. by the Intelligence Officer [Crl.O.P.No.4967 of 2024]***, wherein this Court granted bail to the petitioner therein considering the delay in trial and prolonged incarceration.

4.The learned counsel for the petitioner referred to the judgment of the Apex Court in the case of ***Dheeraj Kumar Shukla vs. State of Uttar Pradesh*** reported in ***(2023) SCC Online SC 918*** and submitted that the Apex Court had held that in case of commercial quantity, provisions of Section 37 of NDPS Act ordinarily be attracted but in the absence of criminal antecedents and considering the custody of the accused, bail can be granted. He further referred to the case in the case of ***Sangram Sadashiv***



Suryavanshi vs. The State of Maharashtra reported in ***(2024) SCC Online***

SC 3526, wherein the Apex Court held that dismissing the bail application and directing the Trial Court to complete the trial within a stipulated time is improper. However, the Apex Court referring to the decision of the Constitution Bench in the case of ***High Court Bar Association, Allahabad vs. State of Uttar Pradesh and others***, held that only in exceptional cases such direction to be given. He further submitted that in this case, there are totally six accused, of which, A6 was granted bail by this Court in Crl.O.P.No.16517 of 2024 dated 01.10.2024, A4 was granted bail in Crl.O.P.No.25507 of 2024 dated 28.10.2024 and A5 was granted bail in Crl.O.P.No.28034 of 2024 dated 04.12.2024. He would submit that the petitioner is also similarly placed as that of the other accused. Hence, prayed for bail.

5.The learned Special Public Prosecutor strongly opposed the contention of the petitioner and submitted that during the course of investigation, it came to light smuggling of 432.700 kg ganja which was seized at the toll gate at Chennai on 24.07.2023, A5 and his associates came



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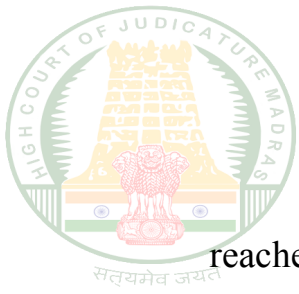
to Madurai from Rameswaram by A6's car. A6 was also with him in the car. Pandi (absconding). the petitioner/A3 and Pandiyarajan/A4 travelled in the car with them and brought them to the Tuni section of Andhra Suite. A6 then left from Tuni to Rameswaram. Paun Pandi, one more associate who is absconding, and K.Jahir Hussain, hired a jeep at Tuni and left for Killankot. Killankot town is on the Odisha border on the way to G.Madukula via Chinthapally. K.Jahir Hussain and his associates reached one Raju Babu's house in Killankotai village at 6:00 pm that evening and after staying there for 10 days, they bought Ganja available in Odisha in bulk and prepared 220 packets of ganja. Since it was raining heavily they could not leave for Tamil Nadu immediately. On 20.07.2023, Paunpandi (absconding) and A5 arrived at Anakapally and all four of them (Paunpandi, K. Jahir Hussain, the petitioner and Pandiyarajan) booked a flight ticket from Visakhapatnam to Chennai for journey on 23.7.2023. On 22.07.2023, the petitioner and A4 loaded the already prepared 220 packets of ganja in the jeep belonging to Raju Babu and reached Anakapalli where all the members loaded it in the already waiting TATA truck TN-31-BD-6347. Then all four of them left for Visakhapatnam and reached Chennai by Indigo flight from Visakhapatnam



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on 23.07.2023. During preliminary enquiry, the petitioner along with other co-accused were intercepted by a team of NCB, Madurai on 24.07.2023 and were brought to Chennai for detailed enquiry on 25.07.2023.

6.He further submitted that the complainant during investigation, besides the voluntary statements, have collected ample evidences. The voluntary statement of A1, the driver of vehicle bearing No.TN 65 AS 6266 from Ramnad to Andhra-Orissa border, arranged by Sellavabba for Jahir Hussain (A-5) and Allhapitchai (A-6), which establishes that the petitioner, Pandiyarajan (A-4), Jahir Hussain (A-5) and Allhapitchai (A-6) are the persons who travelled from Rameshwaram to Andhra Pradesh in order to arrange Ganja and thus formed an interstate drug trafficking syndicate. Reply dated 13.12.2023 was received from Indigo Airlines by email which confirmed petitioner/A3, Pandiyarajan (A-4), Jahir Hussain (A-5), Allhapitchai (A-6) and Pounpandi (absconding) all travelled onboard Indigo flight 6E-881 on 24.7.2023 from Vishakhapatnam to Chennai. This confirms that, after arranging and loading Ganja in TATA truck driven by E. Kadhar Basha (A-1), the above four left from Andhra Pradesh and



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reached Chennai on 24.07.2023. Reply received from Vodafone mobile confirms petitioner/A-3 with mobile No.8531843663 travelled from Rameshwaram to Vishakhapatnam on 08.07.2023 and on 24.07.2023, he left from Vishakhapatnam to Chennai as per his tower location, thus confirming that the petitioner along with his associates travelled from Tamil Nadu to Vishakhapatnam to arrange Ganja and returned to Chennai after doing so. Hence, strongly opposed the bail.

7.Considering the submissions made and on perusal of the materials, it is seen that in this case, the primary allegation against the petitioner is that the petitioner along with A4 to A6 travelled in a car to Andhra Pradesh, from there taken a jeep to the border of Odisha where they sourced ganja, packed them into 220 packets in the house of one Rajababu, thereafter loaded the ganja packets in a Tata Truck bearing registration No.Tn-31-BX-6347 and after loading it, the petitioner along with other accused came to Chennai in a flight from Visakapatnam. Admittedly, the petitioner is in incarceration from the date of his arrest for more than two years. No contraband seized from the petitioner. It is seen that in this case, A4, A5



and A6, who are similarly placed as that of the petitioner were granted bail by this Court. Hence, this Court is inclined to grant bail to the petitioner with certain conditions.

8. 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 the Principal Special Court under EC & NDPS Act, Chennai and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the Application for Suretyship [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 daily at 10.30 a.m., until further orders;

[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



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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.

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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.

To

- 1.The Principal Special Court under EC & NDPS Act,
Chennai.
- 2.The Intelligence Officer,
Union of India,
Narcotics Control Bureau,
Chennai.
- 3.The Superintendent,
Central Prison, Puzhal-I,
Chennai.
- 4.The Public Prosecutor,
High Court of Madras.



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M.NIRMAL KUMAR, J.

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Pre-delivery order made in

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