



Crl.O.P.No.10719 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.10719 of 2025
and Crl.M.P.No.7154 and 7156 of 2025

C.K.Santhosh

... Petitioner

Vs

1. The State of Rep by,
The Inspector of Police,
R-9, Valasaravakkam Police Station,
Chennai.

2. D.Baskaran

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023/Section 482 of Cr.P.C, to call for the records pertaining to the charge sheet in CC No.138/2025 pending on the file of Learned I Additional Special Court for Exclusive Trial of Cases under NDPS Act Cases at Chennai and quash the same.

For Petitioner : Mr.V.C.Vinoth Kumar
For R1 : Mr.A.Gopinath
Government Advocate (Crl.side)

ORDER

This Criminal Original Petition has been filed challenging the charge sheet in CC No.138 of 2025 pending on the file of Learned I Additional Special Court for Exclusive Trial of Cases under NDPS Act Cases at Chennai and to



quash the same.

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2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the first respondent and perused the materials available on record.

3. The case of the prosecution is that the Sub-Inspector of Police received a secret information that the accused along with the petitioner intended to sell Ganja by keeping the same in their home. Thereafter, on enquiry, the first accused handed over the alleged Ganja weighing 8 kgs and other articles to the Sub-Inspector of Police. Thereafter, the Sub-Inspector of Police took two samples of each weighing 50 grams from the alleged Ganja and arrested the first accused. Hence, the complaint.

4. On receipt of the complaint, the respondent Police registered FIR in Crime No.758 of 2024 for the offences punishable under Sections 8(c), 20(b)(ii)(B), 25 and 29(1) of NDPS Act. On completion of investigation, final report has been filed and the same has been taken cognizance in C.C.No.138 of 2025 on the file of the I Additional Special Court for Exclusive Trial of Cases



under NDPS Act Cases at Chennai.

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5. The learned counsel for the petitioner would submit that the petitioner is arrayed as second accused. He has been implicated as an accused. Except the confession statement, there is no other material to implead the petitioner as accused. Pursuant to the confession statement, there is no recovery from the petitioner. In fact, the petitioner was granted anticipatory bail by this Court.

6. The learned Government Advocate (Crl.side) appearing for the first respondent would submit that on the confession statement of the first accused, the petitioner has been implicated as an accused. From the first accused, the passbook of the petitioner has been seized. The first accused confessed that the first accused along with the petitioner involved in selling of Ganja.

7. A perusal of records revealed that there are two accused, in which the petitioner is arrayed as second accused. Even according to the case of the prosecution, the petitioner has been implicated as an accused, only on the



confession statement of the first accused. On the strength of the confession statement, there is no recovery from the petitioner. That apart, there is no incriminating material available to attract the offences under Sections 8(c), 20(b)(ii)(B), 25 and 29(1) of NDPS Act as against the petitioner, except the confession statement.

8. The learned counsel for the petitioner relied upon the Judgment of the Hon'ble Supreme Court of India reported in **MANU/SC/1372/2024** in the case of **Karan Talwar Vs The State of Tamil Nadu**, in which the Hon'ble Supreme Court of India held as follows:-

“ 12. As noted hereinbefore, the sole material available against the Appellant is the confession statement of the co-Accused Viz., Accused No.1, which undoubtedly cannot translate into admissible evidence at the stage of trial and against the Appellant. When that be the position, how can it be said that a prima facie case is made out to make the Appellant to stand the trial. There can be no doubt with respect to the position that standing the trial is an ordeal and, therefore, in a case where there is no material at all which could be translated into evidence at the trial stage it would be a miscarriage of justice to make the person concerned to stand the trial.”

9. Thus, it is clear that solely on the confession statement of the co-accused, the petitioner cannot be convicted. Further, the confession statement of the co-accused which undoubtedly cannot translate into admissible evidence



at the stage of trial, when there is no recovery on the strength of the confession statement. Even according to the case of the prosecution, there is no recovery of the contraband of any other incriminating material from the petitioner, pursuant to the confession statement of the first accused.

10. Further Section 25 of the Indian Evidence Act would make confessional statement of accused before Police inadmissible in evidence and it could not be brought on record by prosecution to obtain conviction. Except the confession statement of the first accused, there is no material available as against the petitioner to proceed as against him.

11. In view of the above, the petitioner cannot be ordered to go for an ordeal of Trial. Therefore, the proceedings in CC No.138/2025 pending on the file of Learned I Additional Special Court for Exclusive Trial of Cases under NDPS Act Cases at Chennai cannot be sustained as against the petitioner. Accordingly, the proceedings in CC No.138/2025 pending on the file of I Additional Special Court for Exclusive Trial of Cases under NDPS Act Cases at Chennai is hereby quashed as against the petitioner alone. The I Additional Special Court for Exclusive Trial of Cases under NDPS Act Cases at Chennai is



Crl.O.P.No.10719 of 2025

directed to proceed with the trial as against first accused.

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12. Accordingly, this Criminal Original Petition stands allowed.

Consequently, connected Miscellaneous petitions are closed.

08.04.2025

Internet:Yes

Index:Yes/No

Speaking/Non speaking order

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CrI.O.P.No.10719 of 2025

To

1. The I Additional Special Court for Exclusive Trial of Cases under NDPS Act Cases at Chennai.
2. The Inspector of Police,
R-9, Valasaravakkam Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.



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CrI.O.P.No.10719 of 2025

G.K.ILANTHIRAIYAN. J.

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CrI.O.P.No.10719 of 2025

08.04.2025