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Crl.O.P.Nos.19112, 17775 & 20875 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.08.2025

PRONOUNCED ON : 13.08.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.Nos.19112, 17775 & 20875 of 2025

Crl.O.P.No.19112 of 2025

Manish Kumar

... Petitioner/A1

Vs.

The State rep. by
The Inspector of Police,
C-5 Kothavalchavadi Police Station,
Crime No.80 of 2025

... Respondent

PRAYER : Criminal Original Petition is filed under Section 483 of BNSS, to enlarge the petitioner on bail in Crime No.80 of 2025 on the file of the respondent police.

For Petitioner : Mr.R.Subburaj
for Mr.C.M.Ramakrishnan

For Respondent : Mr.R.Vinothraja
Government Advocate (Crl. Side)



Crl.O.P.Nos.19112, 17775 & 20875 of 2025

Crl.O.P.No.17775 of 2025

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P.Rohit Kumar

... Petitioner/A2

Vs.

The State rep. by
The Inspector of Police,
C-5 Kothavalchavadi Police Station,
Chennai.
Crime No.80 of 2025

... Respondent

PRAYER : Criminal Original Petition is filed under Section 483 of BNSS, to enlarge the petitioner on bail in Crime No.80 of 2025 on the file of the respondent police.

For Petitioner : Mr.Camyles Gandhi
for Mr.C.C.Chellappan

For Respondent : Mr.R.Vinothraja
Government Advocate (Crl. Side)

Crl.O.P.No.20875 of 2025

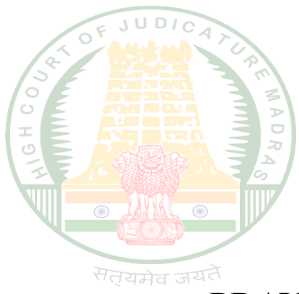
Jitender Soni

... Petitioner/A7

Vs.

The State rep. by
The Inspector of Police,
C-5 Kothavalchavadi Police Station,
Chennai
Crime No.80 of 2025

... Respondent



Crl.O.P.Nos.19112, 17775 & 20875 of 2025

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PRAYER : Criminal Original Petition is filed under Section 483 of BNSS, to enlarge the petitioner on bail in Crime No.80 of 2025 on the file of the respondent police.

For Petitioner : Mr.G.Kalyan Jhabakh
for M/s.Surana & Surana

For Respondent : Mr.R.Vinothraja
Government Advocate (Crl. Side)

COMMON ORDER

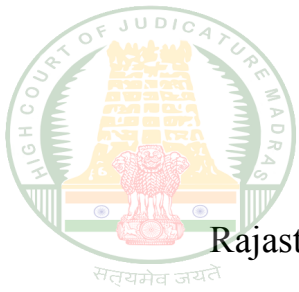
Crl.O.P.No.19112 of 2025 is filed by A1 who was arrested on 13.05.2025, Crl.O.P.No.17775 of 2025 is filed by A2 who was arrested on 16.05.2025 and Crl.O.P.No.20875 of 2025 is filed by A7 who was arrested on 19.06.2025.

2.The petitioners, who were arrested and remanded to judicial custody for the offence punishable under Sections 8(c), 22(b) and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985 [In short 'NDPS Act'], in connection with Crime No.80 of 2025 on the file of the respondent, seek bail.



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WEB COPY 3.The case of the prosecution is that on 13.05.2025, the Sub-Inspector of Police attached to the respondent received a secret information at about 14.15 hours informing that a person wearing grey colour jeans and black colour Tshirt was in possession of Methamphetamine and he was standing near Parvathi Textile Shop. The information received was placed before the superior officer and thereafter, the Sub-Inspector of Police along with one Special Sub-Inspector of Police and Head Constable went to the scene of occurrence. The informant identified the accused and moved away. Thereafter, at about 15.15 hours the identified person, whose name was Manish Kumar (A1) was enquired, Section 50 of NDPS Act was given and thereafter, he was searched. The said Manish Kumar produced one white cover from his pant pocket which contains Methamphetamine of 3.88 grams. Thereafter on confirming the same with test kit, Manishkumar was produced before the Inspector of Police along with Section 57 report and a case in Crime No.80 of 2025 registered for the offence under Sections 22(b), 29(1) and 8(c) of NDPS Act. The said Manishkumar gave a confession that Methamphetamine was purchased from one Rohit Kumar of



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Rajasthan who procured the same from Bengaluru and peddling. The investigation continued, the said Rohit kumar arrested on 16.05.2025 and the other accused, namely, Jitendra Soni on 19.06.2025, Dharsan, Amithu Abik, Mohammed Sidiq/A5, Selvakumar @ Abdula were arrested on 21.05.2025. From A5, 77.88 grams of Methamphetamine seized and the case was altered to Sections 8(c) r/w. 22(c), 20(b)(ii)(A), 25 and 29(1) of NDPS Act on 22.05.2025.

4.The contention of the learned counsel for the petitioners is that from A1 only 3.88 grams of Methamphetamine was seized which is an intermediate quantity. He would submit that in this case, the seizure took place in a public road in the middle of the day. Though in the FIR it is stated that two persons, namely, Saravanan and Pari were said to have been called to be witnesses and they refused but no further details recorded. Further the Police being a law enforcing agency, all citizens are duty bound to be a witness and proper action can be taken if refused. Just by giving the name of two individuals refusing to be a witness would not justify the seizure made in the presence of Police Personnels. He further submitted



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that in this case A2/Rohit Kumar was arrested on 16.05.2025 and admittedly there is no seizure from him. Likewise, from A7 Jitendra Soni who arrested on 19.06.2025 there is no seizure. Till they were remanded, the sections not altered and they were remanded only for the offence under Sections 8(c), 22(b) and 29(1) of NDPS Act. There is nothing to show that the petitioners abetted or conspired together with other accused in commission of the offence. The only circumstances projected is that the petitioners constantly in touch with each other, mere collection of CDR to show all accused were in constant touch would not be sufficient to arrest and proceed against the petitioners. Further the admitted position of the prosecution is that the petitioners contacted through Instagram account and communicated information through message and the messages will get deleted once it has been read. This being so, absolutely there is no material available against the petitioners. Hence prayed for bail.

5.The learned Government Advocate (Crl. Side) filed his counter and submitted that on 13.05.2025, at about 15.15 hours, when the Inspector of Police was in a station duty, at that time, he received secret information



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about the illegal sale of contraband. Thereafter he along with the Special

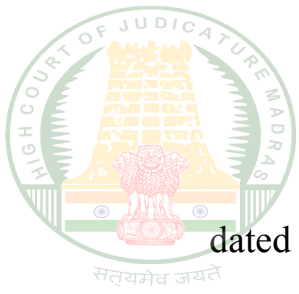
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Sub-Inspector of Police and Head Constable went to the scene of occurrence place (i.e.) Mint Street, near Parvathy Textiles. At that time, one unknown person was standing in a suspicious manner. On seeing the respondent police that person tried to escape from the place, but the respondent police caught him and enquired, since he was giving contradictory versions, on suspicion searched A1/Manishkumar. During enquiry, it came to know that the accused person's name is Manishkumar. During the search, A1 was found in possession of 3.88 grams of Methamphetamine. The respondent police seized the contraband under cover of seizure mahazar in the presence of witnesses. Hence, a case registered in C-5 Kothawalchavadi Police station in Crime No.80 of 2025, U/s.8(c) r/w.22 (b), 29 (1) of NDPS Act against the accused person on 13.05.2025 at about 19.30 hours, Inspector took up the case for further investigation. Thereafter, A1 arrested, recording his confession in the presence of witnesses, contraband was seized and produced the accused before the learned VIII Metropolitan Magistrate, George Town, Chennai and remanded him to judicial custody.



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WEB COPY 6. During the course of investigation, A2/Rohit Kumar was arrested on 16.05.2025, his confession statement recorded in the presence of witnesses and produced before VIIIth Metropolitan Magistrate, George Town, Chennai and remanded him to judicial custody. Thereafter, CDR report of the accused persons A1, A2, A3, A7 obtained and from the report, it revealed that the accused person made conversation for long duration frequently. A3/Dharsan, A4/Amithu Abik, A5/Mohammed Sidiq, A6/Selvakumar @ Abdula all arrested on 21.05.2025. A3 and A4 contacted through Instagram ID and information communicated and they kept the message setting so that messages will get disappeared once it is read. The confession statement of A5/Mohammed Sidiq and A6/ Selvakumar @ Abdula recorded in the presence of witnesses and produced before learned VIII Metropolitan Magistrate, George Town, Chennai and remanded them to judicial custody. A7/ Jithendarsoni was arrested on 19.06.2025 and recorded his confession statement in the presence of witnesses. The seized contrabands along with seized properties produced before the Special Court under EC & NDPS, Chennai vide A.No.532 of 2025 and B.No.349 of 2025



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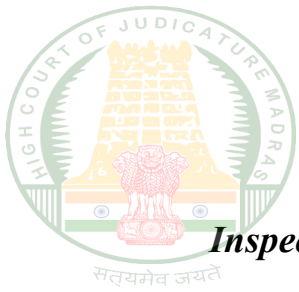
dated 02.06.2025. Further A2 earlier filed a bail petition before the Special Court under EC and NDPS Act, Chennai in Crl.M.P.No.2658 of 2025 and the same was dismissed on 09.06.2025. He would submit that the investigation is in progress and some more accused to be secured. Hence, strongly opposed the bail petition.

7.Considering the submissions made and on perusal of the materials, it is seen that admittedly A1 in this case was arrested on 13.05.2025 and 3.88 grams of Methamphetamine seized from him in the presence of Police Personnels. Further, as regards A2 and A7 who were arrested on 16.05.2025 and 19.06.2025, there is no recovery from them. As on date of their remand, the sections not altered and after the arrest of other accused, more particularly, A5 on 21.05.2025 from whom 77.88 grams of Methamphetamine and 450 grams of ganja seized, the case was altered to commercial quantity. In this case, except for the CDR report and some bank transactions between A1 and A2, there is nothing more, mere transactions cannot be straight away read against them.



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WEB COPY 8. The Apex Court in the case of *Mallikarjun vs. The State of Karnataka [SLP.(CRL.) No.3341 of 2023 dated 22.01.2024]* held that clubbing of total contraband will not be justified when the seizure were independent on different dates and by clubbing would bring the quantity of contraband to commercial quantity category and it will be prejudicial to the accused. In the case of *Ragini Dwivedi @ Gini @ Rags vs. The State of Karnataka* reported in *2021 SCC Online SC 174*, the Apex Court held that when the explanation of accused was that possession of contraband was for personal use, it is proper that Section 27 of NDPS Act ought to be invoked and in such case, citing Section 37 of NDPS Act against the accused would not be proper. In the case of *Irshad vs. State rep. by Inspector of Police, PEW Anna Nagar Police Station, Chennai [Crl.O.P.No.27634 of 2024 dated 20.11.2024]*, this Court held that except for the confession statement when there is no other material to show that the accused had continuity of action and commonality of purpose or design so as to bring their act of possession to constitute commission of offence in the course of same transaction would not be proper. In the case of *Abdul Hameed vs. State by*



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Inspector of Police, V5 Thirumangalam Police Station, Chennai

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[Crl.O.P.No.21315 of 2022 dated 12.09.2022], this Court granted bail to the

accused on the ground that the seizure made from the accused therein is not a commercial quantity and there is no other materials to connect the accused with the other accused. Aggrieved against the same, the State preferred an appeal before the Apex Court in ***Crl.A.No.650 of 2024 @ Slp(Crl.)No.738 of 2023***, wherein the Apex Court by order dated 06.02.2024 confirmed the grant of bail finding that the contraband was below commercial quantity and the rigor of Section 37 of NDPS Act would not apply. In the case of ***State (By NCB) Bengalure vs. Pallulabid Ahmad Arimutta and another*** reported in ***(2022) 12 SCC 633***, the Apex Court on the allegations and objections by the NCB that the accused were in constant touch with each other on the date of seizure and referred to the CDR details, held that this aspect of CDR details can be examined at the stage of trial and granted bail. Likewise in the case of ***Abdul Rab vs. Narcotics Control Bureau*** reported in ***2025 SCC Online DEL 293***, wherein the Delhi High Court held that while considering the application for grant of bail, CDR connectivity between the accused and the co-accused would not be sufficient in the absence of recovery of any



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contraband. In this case, admittedly on the confession of the petitioners, there is no recovery of contraband of commercial quantity. In view of the above, this Court is inclined to grant bail to the petitioners with certain conditions.

9. Accordingly, the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties, each for a like sum to the satisfaction of the Principal Special Court under EC and NDPS Act, Chennai and on further condition 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 petitioners shall report before the respondent Police daily at 10.30 a.m. until further orders;

[c] the petitioners shall not directly or indirectly cause any threat to the de facto complainant and witnesses;



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[e]On breach of any of the aforementioned conditions, the learned Magistrate/Trial Court is entitled to pass appropriate orders against the petitioners in accordance with law as if the aforementioned conditions have been imposed and the petitioners 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];

[f]If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of B.N.S.

13.08.2025

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



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To

- 1.The Principal Special Judge,
Principal Special Court under EC & NDPS Act,
Chennai.
- 2..The Central Prison,
Puzhal, Chennai.
- 3.The Inspector of Police,
C-5 Kothavalchavadi Police Station,
Chennai.
- 4.The Public Prosecutor,
Madras High Court.



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M.NIRMAL KUMAR, J.

cse

Pre-delivery order made in

Crl.O.P.Nos.19112, 17775
& 20875 of 2025

13.08.2025