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CrI.O.P.No.20701 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2025

CORAM

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

CrI.O.P.No.20701 of 2025

Kouadio Adingra Emmanuel Nguettia

... Petitioner

Vs.

The State represented by
The Superintendent of Customs,
Prosecution Unit- Airport,
New Customs House,
Meenambakkam,
Chennai – 600 027.
R.R.No.01 of 2025

... Respondent

PRAYER : Criminal Original Petition filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023, to enlarge the Petitioner/Accused on bail in
R.R.No.01 of 2025 pending on the file of the respondent Police.

For Petitioner : Mr.G.Martin Manivannan

For Respondent : Mr.P.Vishnu
Special Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on
22.05.2023, for the offence punishable under Sections 8(c) read with Section
21©, 23© & 28 of NDPS Act, 1985 in R.R.No.01 of 2025, registered on the
file of the respondent, seeks bail.



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2. The allegation against the petitioner is that the petitioner was found in illegal smuggling of 1999 grams of cocaine who arrived Chennai from Abidjan via ADDIS ABABA by Ethiopian Airlines Flight on 21.05.2023 at about 08.10 hrs. Hence, the case.

3. The learned counsel for the petitioner submitted that at the time of arresting the petitioner, respondent has conducted the test and according to them, it was Amphetamine and the petitioner was arrested for the alleged possession of Amphetamine and subsequently, forensic report revealed that the contraband alleged to be seized from the petitioner was Cocaine. He further submitted that, purely on suspicion, petitioner was arrested and the petitioner is in incarceration for about 2 ½ years. Hence, prays for grant of bail to the petitioner.

4. Per contra, the learned Special Public Prosecutor reported that, though initially, the contraband seized was believed to be Amphetamine since the test kit revealed such nature of contraband, however Forensic Expert opined that the contraband is a cocaine. He further submitted that, both the contraband falls within the schedule of the NDPS and now the



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contraband seized is a commercial quantity and Section 37 of NDPS is applicable. He further submitted that, petitioner is in long incarceration is not a valid ground since it is a case of international smuggling. Hence, he vehemently opposed for grant of bail to the petitioner.

5. I have considered the submissions made on both sides and considered the materials available on records. Admittedly, petitioner traveled from Abidjan to Chennai and the petitioner was intercepted by the Customs Officer and after complying the various mandatory procedures, though, it was earlier believed to be Amphetamine, subsequently it was chemically examined and stated as Cocaine. Further, Section 37 is squarely applicable in this case and merely because seizure at the first instance was believed to be Amphetamine and subsequent change of contraband based on forensic analysis is not a ground for consideration. Seizure is always based on test kit result, but it is always subject to result of forensic examination. It is also submitted that, petitioner is in incarceration for 2 ½ years and no progress in the trial. However, I am of the view that, long incarceration is not a valid ground, and Section 37 of NDPS is applicable, especially when there international trafficking is involved. Hence, this Court is not inclined to grant bail to the petitioner.



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6. Accordingly, this Criminal Original Petition is dismissed.

10.12.2025

sma

To

1.The Superintendent of Customs,
Prosecution Unit- Airport,
New Customs House,
Meenambakkam,
Chennai – 600 027.

2.The Public Prosecutor,
High Court of Madras.



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K.RAJASEKAR, J.

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