



Crl.RC.No.1142 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2025

CORAM:

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

Crl.RC.No.1142 of 2025

Murugan

... Petitioner

Versus

The State Represented by
The Inspector of Police,
M-1, Madhavaram Police Station,
Chennai
(Crime No.1176 of 2024)

... Respondent

PRAYER: Criminal Revision has been filed under Section 438 & 442 of BNSS, praying to set aside the order passed in Crl.MP.No.2762 of 2025 dated 11.06.2025 on the file of the Principal Special Judge under EC & NDPS Act, Chennai.

For Petitioner	:	Mr.C.M.Ramakrishnan
For Respondent	:	Mr.A.Gopinath, Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case has been preferred against the order passed in Crl.MP.No.2762 of 2025 dated 11.06.2025 on the file of the Principal Special Judge under EC & NDPS Act, Chennai, thereby the



Crl.RC.No.1142 of 2025

WEB COPY

petition filed by the respondent under Section 36(A)(4) of NDPS Act has been allowed.

2. The petitioner has been arrayed as A8 in crime No.1176 of 2024 registered for the offences punishable under Sections 8(c), 22(c), 25, 29(1) of NDPS Act, alleging that based on the secret information, the respondent, after obtaining permission from the superior officer, went to the scene of crime. They found the second accused in possession of 100 grams of methamphetamine and the other accused persons in possession of 1400 grams of methamphetamine. In pursuant to his confession, the other accused persons have been implicated as accused. After seizure of the contraband, the respondent registered FIR and remanded the accused to judicial custody. On the strength of his confession statement, there was recovery of methamphetamine from the other accused persons. FIR was registered on 21.12.2024. However, the respondent did not complete the investigation within the time stipulated and as such on 02.06.2025, they filed petition under Section 36(A)(4) of NDPS Act seeking further extension of statutory period to complete the investigation. It was filed

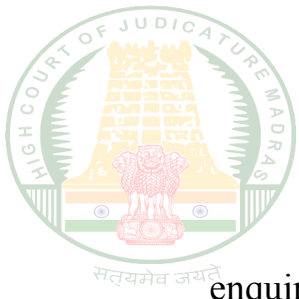


Crl.RC.No.1142 of 2025

WEB COPY

on the 154th day from the date of the remand of the accused. It was allowed and aggrieved by the same, the present criminal revision case has been filed.

3. The learned counsel for the petitioner would submit that though the Trial Court ordered notice to the petitioner and he has given opportunity of hearing, the Public Prosecutor while filing report as contemplated under Section 36(A)(4) of NDPS Act, seeking further time to complete the investigation, did not even whisper about reason to extend the period of remand of the petitioner. The reason stated was that, all the accused persons were found in possession of 17.821 kg of methamphetamine and the samples were taken for chemical analysis. They also seized vehicles and cell phones from all the accused persons. Further, the source of contraband has to be investigated. All the call records of the mobile phones of the accused are under investigation. Further, there is a need to do a financial investigation regarding whether the accused had purchased any property through the selling of the contraband. The source of the contraband and money transfers have to be



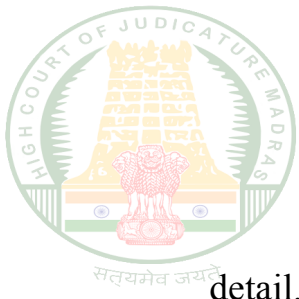
Crl.RC.No.1142 of 2025

WEB COPY

enquired in detail. The source of the contraband and the crucial documents pertaining to the investigation in the above case require detailed analysis and interrogation of various persons has to be made to complete the investigation. However, the report submitted by the Public Prosecutor did not mention any specific reason as to why further detention of the accused is necessary beyond the period of 180 days.

4. Heard, the learned counsel appearing on either side and perused, all the materials placed before this Court.

5. It is the submission of the learned Government Advocate (Crl. Side) appearing for the respondent that there are 15 accused and they were found in possession of 17.821 kg of methamphetamine, which is a commercial quantity. During the seizure of contraband, the respondent also seized the car and cell phones of the accused persons. Now the investigation is still pending since a large number of accused have been involved in this case and their call details, source of fund and any purchase of property from crime proceeds have to be investigated in



Crl.RC.No.1142 of 2025

WEB COPY

detail. Therefore, it requires further time and as such, the trial court rightly allowed the aforesaid petition and extended the time for only 60 days.

6. The only point to be considered in this criminal revision case is that whether the conditions as contemplated under Section 36(A)(4) of NDPS Act have been complied with or not?

7. It will be relevant to extract Section 36A(4) of NDPS Act, which reads as follows:

(4) In respect of persons accused of an offence punishable under section 19 or section 24 or section 27A or for offences involving commercial quantity the references in sub-section (2) of section 167 of the Code of Criminal Procedure, 1973 (2 of 1974), thereof to "ninety days", where they occur, shall be construed as reference to "one hundred and eighty days"

Provided that, if it is not possible to complete the investigation within the said period of one hundred and eighty days, the Special Court may extend the said period up to one year on the report of the Public Prosecutor



WEB COPY



Crl.RC.No.1142 of 2025

indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of one hundred and eighty days.

8. This Court, by the order dated 10.12.2024, in Crl.R.C.No.2088 of 2024, held that the report of the learned Public Prosecutor must satisfy twin requirements. The relevant paragraphs read as follows:

*“6. The learned Special Public Prosecutor has not stated about the appreciable progress in the investigation in the said report. The learned Special Public Prosecutor had also not stated as to why further detention is required, on account of the investigation. The Hon'ble Supreme Court in **Hitendra Vishnu Thakur v. State of Maharashtra**, reported in (1994) 4 SCC 602, had held in paragraph No.23 as follows:*

“23.....A public prosecutor is an important officer of the State Government and is appointed by the State under the Code of Criminal Procedure. He is not a part of the investigating agency. He is an independent statutory authority. The public prosecutor is expected to independently apply his mind to the request of the investigating agency before Submitting a report to the court for extension of time with a view to enable the investigating agency to complete the investigation. He is not merely a post office or a forwarding agency. A public prosecutor may or may not agree with the reasons given by the investigating



officer for seeking extension of time and may find that the investigation had not progressed in the proper manner or that there has been unnecessary, deliberate or avoidable delay in completing the investigation. In that event, he may not submit any report to the court under clause (bb) to seek extension of time. Thus, for seeking extension of time under clause (bb), the public prosecutor after an independent application of his mind to the request of the investigating agency is required to make a report to the Designated Court indicating therein the progress of the investigation and disclosing justification for keeping the accused in further custody to enable the investigating agency to complete the investigation. The public prosecutor may attach the request of the investigating officer along with his request or application and report, but his report, as envisaged under clause (bb), must disclose on the face of it that he has applied his mind and was satisfied with the progress of the investigation and considered grant of further time to complete the investigation necessary. The use of the expression "on the report of the public prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period" as occurring in clause (bb) in sub-section (2) of Section 167 as amended by Section 20(4) are important and indicative of the legislative intent not to keep an accused in custody unreasonably and to grant extension only on the report of the public prosecutor."

*7. Following this judgment, the Hon'ble Supreme Court in **Sanjay Kumar Kedia v. Intelligence Officer, NCB**, reported in (2009) 17 SCC 631, on facts, held that since the Public Prosecutor neither indicated the progress of investigation nor had stated the compelling reasons, which require an extension of custody beyond 180 days, the*



WEB COPY



Crl.RC.No.1142 of 2025

order passed by the Magistrate extending the remand cannot be sustained and held as follows:

“18. A bare perusal of this application shows that it has been filed by the investigating officer of respondent No.1 and does not indicate even remotely any application of mind on the part of the public prosecutor. It further does not indicate the progress of the investigation, nor the compelling reasons which required an extension of custody beyond 180 days (emphasis supplied). This application was allowed by the Special Judge on 2nd August, 2007 i.e. on the day on which it was filed which also reveals that no notice had been issued to the accused and he was not even present in Court on that day.”

8. The Calcutta High Court in **Subhas Yadav v. State of West Bengal**, reported in (2023) SCC OnLine Cal 313, at paragraph Nos.31.5 and 31.6 had held as follows:

“31.5. Prayer for extension of period of detention must be on the basis of a report of Public Prosecutor which must record progress of investigation and spell out specific reasons to justify further detention beyond 180 days pending investigation (emphasis supplied);

31.6. Special Court on the basis of the report of Public Prosecutor and materials in support of such plea must be satisfied of the twin requirements, i.e., (a) there is appreciable progress in the investigation and **(b) there are specific/compelling reasons to justify further detention pending investigation** (emphasis supplied). Each case has to be decided on its own merits. For example, failure to complete investigation solely on the score of nonsubmission of FSL report of the samples drawn from the contraband is an institutional



WEB COPY



Crl.RC.No.1142 of 2025

shortcoming. This by itself may not justify further detention pending completion of investigation. But if the aforesaid fact situation is coupled with compelling circumstances like complexities in investigation in an organized crime racket or inter-state/trans-border trafficking, criminal antecedents of the accused giving rise to possibility of recidivism, abscondence of co-accused, etc., constituting 'specific reasons' justifying further detention, the Court may be inclined to extend the period of detention and deny liberty;"

Therefore, if the report of the Public Prosecutor does not satisfy the twin requirements, the further detention pending completion of the investigation would not be justified.

9. In this case, admittedly the Trial Court issued notice and had given opportunity of hearing to the petitioner. The Public Prosecutor also filed report indicating the progress of the investigation and the prevailing circumstances seeking extension of time to complete the entire investigation.

10. On perusal of the report submitted by the Public Prosecutor, it is revealed that it did not even whisper any compelling reason for seeking detention of accused beyond the period of 180 days and hence,



Crl.RC.No.1142 of 2025

WEB COPY

has not satisfied the twin requirement as contemplated by the **Subhas Yadav's case** as cited before. However, without considering the same, the trial court mechanically extended the time to complete the investigation, thereby the petitioner could not come out on default bail.

11. This Court finds that the petitioner has fulfilled the twin conditions as contemplated under Section 37(1)(b)(ii) of NDPS Act to enlarge them on bail, which are as follows:

“(i) Firstly, there are reasonable grounds for believing that the accused is not guilty of such offence and,

(ii) Secondly, he is not likely to commit any offence while on bail”

The above stated conditions are cumulative and not alternative. Considering the same and also the period of incarceration by the petitioner, this Court is of the opinion that further custody of the petitioner is not required for the purpose of investigation. As such, this Court is inclined to grant bail to the petitioner.



Crl.RC.No.1142 of 2025

WEB COPY

12. Accordingly, the impugned order passed in Crl.MP.No.2762 of 2025 dated 11.06.2025 on the file of the Principal Special Judge under EC & NDPS Act, Chennai is set aside and the petitioner is ordered to be released on bail on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two blood related sureties, each for a like sum to the satisfaction of the Principal Special Judge, Special Court for EC & NDPS Act, Chennai and on further conditions that:

(a) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner shall report before the respondent police daily at 10.30 a.m. and 05.30 p.m. for a period of 30 days and thereafter as and when required for interrogation.

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner shall not abscond either during investigation or trial;



Crl.RC.No.1142 of 2025

WEB COPY

(e) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the 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) AIR SCW 5560]; and;

(f) if any accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

13. In the result, this criminal revision case stands allowed.

21.07.2025

Internet:Yes
Index:Yes/No
Speaking/Non speaking order
Lpp

To
1.The Principal Special Judge, Special Court for EC & NDPS Act,
Chennai

2.The Inspector of Police,
M-1, Madhavaram Police Station,
Chennai



Crl.RC.No.1142 of 2025

3. The Superintendent,
Central Prison,
Puzhal-II, Chennai.

4. The Public Prosecutor,
High Court of Madras



WEB COPY



Crl.RC.No.1142 of 2025

G.K.ILANTHIRAIYAN. J,

Lpp

Crl.RC.No.1142 of 2025

21.07.2025