



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-11-2025

CORAM

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

CRL OP No. 23202 of 2025

Mohanraj @ Raju

Petitioner(s)

Vs

The state represented by,
The Deputy Superintendent of police
NIB-CIB Kancheepuram, crime no.23
of 2024

Respondent(s)

PRAYER Criminal Original Petition filed under Section 483 of BNSS, to enlarge the petitioner /accused on bail in crime no.356 of 2024 pending on the file of the learned I Additional special court under (EC) and NDPS Act cases, Chennai.

For Petitioner(s): Mr.J.Ramesh
 for M/s.S.Kasirajan



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For Respondent(s): Mr. A. Gopinath
Government Advocate
(Crl. Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 17.10.2024, for the offences punishable under Sections 8(c), r/w 20(b)(II)(c), 25 & 29(1) of NDPS Act, in Crime No.23 of 2024, registered on the file respondent police, seeks bail.

2.The allegation against the petitioner is that the petitioner, joining hands with other three accused, indulged in transportation of 200 kgs of Ganja in a goods vehicle by hiding the same under the bunch of Bananas. It is also alleged by the prosecution that they have received prior information and after deducing the same in writing, they intercepted two vehicles, viz., one is a goods vehicle which was carrying the Bananas and another vehicle which was said to be escorting the goods vehicle. The police recorded that A2 was driving the vehicle bearing Reg.No.AP-21-TX-0102 White colour Force trax goods vehicle and



which contained 200 kgs of Ganja and the police have arrested all the four persons and the final report is also filed stating that the vehicle was driven by A2 was inspected and the contraband was recovered. In the final report it is not stated who travelled in the goods vehicle carrying contraband. It is stated that all the four persons involved in the offence and that two vehicles were used for transporting the Ganja.

3.The learned counsel for the petitioner submitted that the petitioner is ranked as A1 in this case. According to him he travelled in the car and he was not aware about the contraband transported in the goods vehicle and he further relied on the seizure memo which states that the contraband was seized from the vehicle driven by Shanmuganantha (A2) @ Prabu. The seizure memo has not indicated who are all persons travelled in the goods vehicle and who are the persons escorted the same by using the car. Apart from the magazar there is no other materials has been produced before the trial Court to show that this petitioner had also travelled in the goods vehicle. Hence, he prayed for grant of bail to the petitioner.



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4.The learned Government Advocate (Crl.Side) for the respondent reported that the petitioner is ranked as A2 and he travelled in the goods vehicle and A3 and A4 also travelled in Honda Amaze car vehicle Reg.No.Ap-39-uh-5461 and they escorted the goods vehicle. He further stated that A1, A3 and A4 are brothers known to each other and they were also aware about the contraband which was hidden in the goods vehicle. To buttress his arguments, he relied on the confession statement recorded from each accused. He further submitted that the investigation is concluded, the final report is also filed and in the final report, it has been stated that all the persons were involved in transportation of Ganja. Hence, he opposed for grant of bail to the petitioner.

5.I have considered the submissions made on both sides and perused the records. Though it is alleged that this petitioner travelled in the goods vehicle, which contain the contraband, there is no material produced before me to show that whether the petitioner travelled in the goods vehicle or in the car which was coming separately. Admittedly, it is the case that both vehicles came separately



and both vehicles have intercepted separately by the police. However, there is no mention about the persons who had travelled in the vehicles. The seizure memo has baldly recorded that the Ganja was recovered from the goods vehicle driven by A2. Though the confession statement relied on by the learned Government Advocate (Crl.side) to show that this petitioner has travelled in the goods vehicle and also having knowledge about the contraband, the same could not be considered as a valid evidence in view of the categorical declaration made by the Hon'ble Apex Court in ***Tofan Singh Vs. State of Tamil Nadu reported in 2021 4 SCC 1***, that the statement recorded under Section 67 of the NDPS Act or the statement recorded by the police, is not an admissible evidence. Apart from the confession no other material produced to substantiate the involvement of the petitioner. Though this Court is of the view that by recording the statement of persons who have witnessed the seizure can very well sufficient to clarify and reveal the persons travelled in the vehicle, unfortunately in this case, that is not recorded and it has been baldly recorded that both vehicles were intercepted and thereafter the police have conducted search on the goods vehicle which was driven by A2 and the same was seized



since it contained contraband. Under the said circumstances without showing any material to link the petitioner herein with the alleged contraband, especially when there is a specific stand taken by the petitioner herein that he travelled in Honda Amaze car which was admittedly not carrying any Ganja, and came separately and that there are specific defence that they were not having knowledge about the transportation of Ganja by A2, it has not been *prima facie* established that the petitioner herein is also in conscious possession by travelling in the goods vehicle, I am of the view that the prosecution has failed to establish the *prima facie* case to link the petitioner with the alleged contraband, and the petitioner made out a case that he is not guilty of charges and hence this Court is inclined to grant bail to the petitioner with certain conditions: It is also made clear that the observation made in this petition is only for the limited purpose of considering Section 37 of NDPS Act for granting bail and same shall not have any bearing to decide the very same point during trial.

6. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/- (Rupees Twenty-Five Thousand**



Only) with **two sureties**, each for a like sum to the satisfaction of the learned I

Additional Special Court under [EC] and NDPS Act Cases, Chennai, and on

further conditions 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 petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks, and thereafter as and when required for interrogation;

[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 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



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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.

21-11-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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
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- 1.The state represented by,
The Deputy Superintended of police
NIB-CIB Kancheepuram, crime no.23
of 2024
- 2.The I Additional Special Court under
[EC] and NDPS Act cases, Chennai.
- 3.The Public Prosecutor,
High Court of Madras.



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K.RAJASEKAR J.
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