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CrI.O.P.No.30907 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.06.2025

PRONOUNCED ON : 25.06.2025

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.30907 of 2024

Allen Dominic James

... Petitioner/A3

Vs.

The State rep. by
The Intelligence Officer,
Chennai Zonal Unit.
NCB F.No.48/1/8/2023-NCB/MDS

... Respondent

PRAYER : Criminal Original Petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, to enlarge the petitioner on bail pending trial in C.C.No.20 of 2024 on the file of the Additional District Judge /Presiding Officer, Special Court for Essential Commodities Act Cases, Coimbatore.

For Petitioner : Mr.K.Balasubramaniam

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor



CrI.O.P.No.30907 of 2024

WEB COPY

ORDER

The petitioner/A3, who is facing trial in C.C.No.20 of 2024 for the alleged offence under Sections 8(c) r/w 20(b)(ii)(A), 21(B), 22(C), 23(C), 28, 29 of NDPS Act , seeks bail.

2. The petitioner is an Auto Driver. On the instructions of A2, he used to book parcels with the postal authorities, namely, Sub Post Office, Rathinapuri Post, Coimbatore. The petitioner is a known person to A2/Rakesh, who used to employ the petitioner for booking parcel and regularly hand over the parcels to the petitioner to be sent by speed post. The petitioner used to book the parcels and thereafter hand over the receipts to A2. In this regard A1/Mohammed Fawaz and A2/Rakesh used to speak to him. The petitioner is not aware about the contents of the parcel as to whom it is intended and for what purpose. Since the parcel is received from KR Engineering Works Company, the petitioner was under the impression that company for business purpose regularly sending parcels and nothing more.

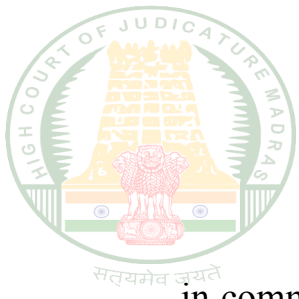


CrI.O.P.No.30907 of 2024

WEB COPY

The petitioner was served with summon under Section 67 of NDPS Act and he appeared before the respondent, gave his statement on the same line. The petitioner's wife was also summoned and petitioner's mobile phone, his wife's mobile phone and bank statements all collected and verified. The petitioner's house was searched, no incriminating material found. Since the petitioner was paid a little higher amount than the normal parcel charges, the petitioner's contention doubted. The petitioner received parcel charges and service charges, nothing more.

3.The learned counsel for petitioner further submitted that the petitioner arrested on the statement of co-accused and nothing more. The Hon'ble Apex Court in **Toofan Singh** case, held that the statement recorded under Section 67 of NDPS Act cannot be taken in *toto* and to be considered only to the limited extent of any recovery similar to Section 27 of the Indian Evidence Act. In this case, there is no material against the petitioner to show the petitioner had any knowledge or abetted or conspired with other accused

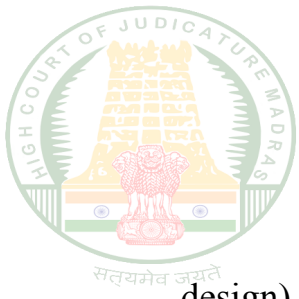


CrI.O.P.No.30907 of 2024

WEB COPY

in commission of the offence. The complaint of the respondent proceeds that petitioner used to receive Rs.1,500/- for each parcel, which was above the normal charges. According to the petitioner, he was informed that the parcel contained 'Anti-slip Mat' samples. The petitioner, an Auto Driver stationed at KPS Auto Stand. The petitioner is known to A2, an old acquaintance, when A2 was staying in a hostel earlier. Thus taking his complaint as a whole, there is no case made out and the petitioner has got no bad antecedents. The petitioner is residing with his family having deep social root and he will not evade justice. The petitioner was arrested and he is in prison from the year 2023 and now investigation completed, charge sheet filed and the trial is yet to proceed. Hence, prayed for granting bail to the petitioner.

4.The learned Special Public Prosecutor appearing for the respondent submitted that based on a specific information, the Officers of NCB Chennai Zonal Unit seized 10 gms 2 C-B, 3 gms MDMA, 150 gms THC, 156 gms THC (viscous liquid), 168 gms Ganja, 1 gm Cocaine, 7 gms LSD (double



CrI.O.P.No.30907 of 2024

design), 20 gms LSD (single design and no design) by NCB. Chennai at KR Engineering Works/K R Kwality Racks, 499/3A, Dam Thottam, Bharathi Street, Chinnavedampatti, Coimbatore- 641049 on 22/23.06.2023 from the possession of Mohammed Fawaz S., S/o. Salim Abdul Muthalif, aged 32 yrs, Indian R/o No. 252D/196. Kannusamy Street, Sangapur, Coimbatore North, Rathinapuri, Coimbatore (as per ID) & Rakesh R. S/o Ravichandran K., aged 31 yrs., Indian R/o Flat no. CC804, KGISL Metropolis Apartments, Keeranatham, Saravanampatti, Coimbatore. Subsequently, individual summons dated 23.6.2023 were served upon both Mohammed Fawaz S. and Rakesh R. requesting them to appear before the Intelligence Officer NCB, Chennai at SS Hotel, Vinayagar Koil Street, Saravanampatti, Coimbatore in connection with the above instance of drug trafficking. In response to the summons, they appeared before Sh. Akshay Hunurkar. Investigating Officer, NCB, Chennai at Hotel SS residency, 7/12, Vinayagar Kovil Street, Ramanujam Nagar Bus Stop, Coimbatore on the same day. In follow up



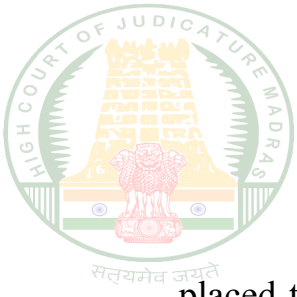
CrI.O.P.No.30907 of 2024

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action, Allen Dominic James, the petitioner was also apprehended at KPS auto stand, Coimbatore and summoned before the NCB officer.

4.1. He further submitted that the petitioner and other accused/A1 and A2 appeared before the Intelligence Officer and tendered their voluntary statements individually in which they inter alia admitted their role in Procurement, possession, internationally trafficking, manufacturing, selling and entering into criminal conspiracy in the illicit trafficking. Based on their statements and other material evidences seized and took possession of drugs, they were placed under arrest at 22:45 Hrs on 24.6.2023, 22:00 Hrs on 24.6.2023 and 22:30 hrs on 24.6.2023 respectively under Section 8(c) r/w Sec.20 (b) (ii) (A), 21(B), 22(C), 23(C), 28 & 29 of the NDPS Act 1985.

4.2. He further submitted that as per statement of the Mohammed fawas[A-1] it was revealed that 21 consignments of drugs [i.e., LSD, COCAINE, GANJA.] were packed as per the demand of his associates, who



CrI.O.P.No.30907 of 2024

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placed the order of drugs through darknet and handed over to the petitioner by R.Rakesh [A-2] for dispatch through India post, the petitioner booked the following consignments through India post, Coimbatore to various places in India such as Chennai, Coimbatore, Bangalore, Cochin, Delhi respectively.

Consignments from Foreign Post and delivered through India post					
1.	USPS – LV785409954US				
2.	USPS – CN218017611US				
3.	Canada Post -RN375081006CA				
4.	UPU -LJ002718911FR				
Consignments sent through India post from Coimbatore to various places of India					
1.	Shigan	ET 586713398 IN	11	Chandra Kumar	ET 586713526 IN
2.	Nitheesh	ET 586713407 IN	12	Shashank	ET 586713530 IN
3.	Ankush	ET 586713415 IN	13	Karthick	ET 586713543 IN
4.	Junaid	ET 586713424 IN	14	Sandesh	ET 586713557 IN



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5.	Ragib	ET 586713469 IN	15	Nikhil	ET 586713565 IN
6.	Veer	ET 586713472 IN	16	Bharath	ET 586713659 IN
7.	Shubankar	ET 586713486 IN	17	Akash	ET 586713662 IN
8.	Abhishek	ET 586713490 IN	18	Haceeb	ET 586713676 IN
9.	Kasivishvanadhan	ET 586713509 IN	19	Prateek	ET 594851983 IN
10.	Soham	ET 586713512 IN	20	Apurav	ET 594851997 IN
			21	Swapnil	ET 594852003 IN

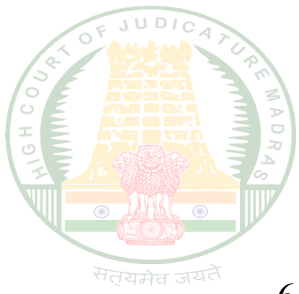
in this regard following cases were registered in various locations of India by Narcotic Control Bureau , the details are as under :-

Sl no	Name of the receiver	Postal tracking no	Seized by NCB/ sister agencies	Registered Case No
1.	Karthick	ET 586713543 IN	NCB Cochin Zonal Unit , Ernakulam , Kerala	OR-05/2023
2.	Nitheesh	ET 586713407 IN	NCB Cochin Zonal Unit , Ernakulam	OR-06/2023
3.	Ragib	ET 586713469 IN	NCB Cochin Zonal Unit , Ernakulam	OR-06/2023
4.	Abhishek	ET 586713490 IN	NCB Cochin Zonal Unit , Ernakulam	OR-06/2023
5.	Haceeb	ET 586713676 IN	NCB Cochin Zonal Unit , Ernakulam	OR-06/2023
6.	Junaid	ET 586713424 IN	NCB Bangalore Zonal Unit , Bangalore	NCB F No. 48/1/24/2023 BZU
7.	Bharath	ET 586713659 IN	NCB Bangalore Zonal Unit , Bangalore	NCB F No. 48/1/25/2023 BZU
8.	Prateek	ET 594851983 IN	NCB Bangalore Zonal Unit , Bangalore	NCB F No. 48/1/26/2023 BZU
9.	Nikhil	ET 586713565 IN	NCB Bangalore Zonal Unit , Bangalore	NCB F No. 48/1/27/2023 BZU
10.	Ankush	ET 586713415 IN	NCB Bangalore Zonal Unit , Bangalore	NCB F No. 48/1/28/2023 BZU
11.	Akash	ET 586713662 IN	NCB South Zonal Unit, Chennai	NCB F No. 48/1/07/2023 NCB/MDS
12.	Chandra Kumar	ET 586713526 IN	NCB South Zonal Unit, Chennai	NCB F No. 48/1/08/2023 NCB/MDS

Consignments from Foreign Post and delivered through India post

1. Canada Post -RN375081006CA - NCB F No. 48/1/08/2023 NCB/MDS
2. UPU -LJ002718911FR - NCB F No. 48/1/08/2023 NCB/MDS

5. Heard both sides and perused the materials available on record.



CrI.O.P.No.30907 of 2024

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6. Considering the submissions made and on perusal of the material it is seen that the petitioner/A3 in this case was arrested on 24.06.2023 and he is in prison from that date onwards. Now investigation completed. Admittedly, there is no recovery from the petitioner. The petitioner is an Auto Driver not in dispute. He used to ply auto from Auto stand. A2 in this case is an old acquaintance to the petitioner when A2 was staying in a hostel. The petitioner employed by A2 for taking parcel from the company, booking it in the post office, return the postal receipt. A2 paid transportation, parcel charges with extra money. The petitioner's house was searched, admittedly, there was no seizure of drugs from the petitioner. The petitioner's bank account and phone details collected, except for regular parcel work, there is nothing against the petitioner. In fact, the prosecution proceeds that the co-accused informed the petitioner that Anti-slip Mat are sent as parcel. The petitioner had no reason to doubt the parcel sent from the company. It is an ongoing company and receiving extra money alone cannot be a reason



CrI.O.P.No.30907 of 2024

WEB COPY

against the petitioner, in the absence of any other materials. Now after *Toofan Singh's* case, statement under Section 67 of NDPS Act has limited application akin to recovery under Section 27 of the Evidence Act. In this case, no recovery of any incriminating material on the petitioner's statement under Section 67 of NDPS Act. The petitioner is living with his family, got deep social root. In view of the same, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the learned **Additional District Judge/Presiding Officer, Special Court for Essential Commodities Act Cases, Coimbatore**, 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



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Crl.O.P.No.30907 of 2024

Practice, 2019']. The learned Magistrate shall obtain a copy of any one of the identity proofs to ensure their identity;

[b] the petitioner shall appear before the trial Court on all hearing dates without fail;

[c] the petitioner shall make himself available for interrogation by the respondent 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 during 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 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



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CrI.O.P.No.30907 of 2024

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.

25.06.2025

rsi

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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Crl.O.P.No.30907 of 2024

M.NIRMAL KUMAR, J.

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To

1.The Additional District Judge/Presiding Officer,
Special Court for Essential Commodities Act Cases,
Coimbatore.

2.The Intelligence Officer,
Chennai Zonal Unit.

3.The Superintendent,
Central Prison,
Coimbatore.

4.The Public Prosecutor,
High Court of Madras.

Pre-delivery order in
Crl.O.P.No.30907 of 2024

25.06.2025