



CrI.O.P.No.29491 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2025

CORAM

THE HON'BLE MR. JUSTICE SUNDER MOHAN

CrI.O.P.No.29491 of 2024

N. Thiagarajan @ Simon,
S/o. Shri. T. Nagayah,
No.18-C, Jalan SR, 3/3,
Taman Serdang Raja, Seri Kembangan,
Malaysia - 43300.
Present residing at
No.5A, Nagamani Salai,
Annal Ambedkar Nagar,
Perungudimedu Kallukuttai,
Perungudi, Chennai – 600 096.

... Petitioner

Versus

The State Represented by,
The Intelligent Officer,
Director of Revenue Intelligence,
No.27, G.N.Chetty Road,
T.Nagar, Chennai – 17.
(F.No.DRI/CZU/VIII/48/ENQ-1/INT-21/2017).

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita,(BNSS), 2023, pleased to enlarge the petitioner on
bail in C.C.No.33 of 2018 pending trial before the learned I-Additional Special
Judge for NDPS Cases at Chennai.



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For Petitioner : Mr. H. Manivannan

For Respondent: Mr. N. P. Kumar,
Special Public Prosecutor, (DRI Cases)

ORDER

This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 16.06.2017, seeking bail in C.C.No.33 of 2018 pending trial before the learned I-Additional Special Judge for NDPS Cases at Chennai for the alleged offences registered under Section 8(c) r/w Sections 22(c), 23, 25, 27A, 28 & 29 of the Narcotics Drugs and Psychotropic Substances Act, (NDPS) 1985 r/w Section 9A r/w Section 25A of NDPS [Regulation of Controlled Substances] Order 1993 r/w Section 135A of the Customs Act, 1962.

2. The case of the prosecution is that on 14.06.2017 the respondent conducted a search at JSM Ware House and during that search they found 1.305 kgs of Pseudo-Ephedrine and 3.065 kgs of Methamphetamine, which constitutes a commercial quantity.



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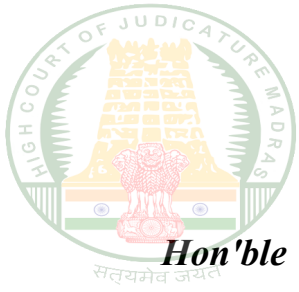
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3. It is the further alleged by the prosecution that the petitioner was manufacturing the aforementioned contraband in his warehouse, and he was responsible for supplying the contraband to various persons. Contraband worth about Rs.6.5 lakhs were seized from the other two accused and from the petitioner's possession.

4. This is the third bail application. The second bail application in CrI.O.P.No.13874 of 2024 was dismissed on 11.07.2024, with a direction to the Trial Court to complete the trial within a period of three (3) months. The relevant portion of the said order reads as follows:

“5. Considering the fact that the contraband seized from the petitioners is commercial quantity and also they were involved in manufacturing the narcotic drug. Hence, this Court is not inclined to allow this petition. The Trial Court is directed to complete the Trial within a period of three months from the date of receipt of a copy of this order. Accordingly, this petition is dismissed.”

5. Though the earlier bail application was dismissed on 11.07.2024 in CrI.O.P.No.13874 of 2024 by the Hon'ble Mrs.Justice T.V.Thamilselvi and this bail petition is listed before this Court pursuant to the orders passed by the



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***Hon'ble Division Bench of this Court in CrI.O.P.No.31787 of 2024 on
04.03.2025.***

6. Learned counsel for the petitioner submitted that the petitioner is in judicial custody from 16.06.2017, having been incarcerated for nearly 8 years. He has completed more than 1/3rd of maximum sentence that can be imposed on him. Further, he submitted that the trial is not likely to be completed in the near future, as only 8 out of 42 witnesses have been examined so far. Considering the period of incarceration of the petitioner, he sought bail.

7. Learned Special Public Prosecutor appearing for the respondent submitted that out of 42 witnesses 8 witnesses have been examined, and that the trial would be concluded within three months, and opposed the grant of bail to the petitioner.

8. Admittedly, the petitioner has been in judicial custody for more than 8 years, and has completed more than one-third of the maximum sentence that can be imposed on him. The trial is not likely to be completed in the near future. Despite this Court granting three months time, earlier the trial has not been



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completed so far. As of now, only 13 witnesses have been examined.

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9. In the light of the judgment of the Hon'ble Supreme Court in *Rabi Praksh Vs. The State of Odisha* reported in *2023 LiveLaw (SC) 533* and *Ankur Chaudhary Vs. The State of Madhya Pradesh* reported in *2024 SCC Online SC 2730*, the bar under Section 37 of NDPS Act, would not be applicable, in view of the long incarceration and the delay in concluding the trial.

10. Considering the nature of allegations, period of incarceration and in view of the aforesaid observations of the Hon'ble Supreme Court, and since further custody of the petitioner is not required, this Court is inclined to grant bail to the petitioner with certain conditions. However, since the petitioner is a Malaysian national, the respondent shall inform the Registration Officer under the Registration of Foreigners Rules, 1992 about this order.

11. Accordingly, the petitioner is ordered to be released on bail on condition to execute 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 Judge for NDPS Cases at Chennai**, and on



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further conditions that:-

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(a) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(b) the petitioner shall report the Trial Court on all working days at 10:30 A.M., If any deviation in complying the condition, bail granted to the petitioner shall stand cancelled;

(c) the petitioner shall not commit any offences of similar nature;

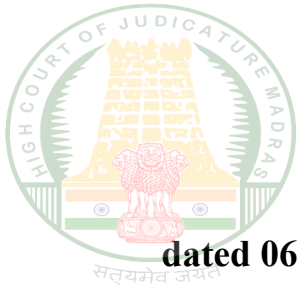
(d) the petitioner shall not abscond either during the investigation or during the trial;

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

(f) on breach of any of the aforesaid conditions, the learned Judicial 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 was 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]*;

(g) if the petitioner thereafter absconds, a fresh FIR can be registered under Section 229A IPC; and

(h) since the petitioner is a Malaysian National, the respondent shall **communicate the order of granting bail, to the concerned Registration Officer appointed under Rule 3 of Registration of Foreigners Rules, 1992 as per the decision of the Hon'ble Supreme Court in *Frank Vitus vs. Narcotics Control Bureau and others* in CrI. Appeal Nos.2814-2815 of 2024**



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dated 06.01.2025.

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To

1. The I-Additional Special Judge for NDPS Cases at Chennai.
2. The Intelligent Officer,
Director of Revenue Intelligence,
No.27, G.N.Chetty Road, T.Nagar, Chennai – 17.
(F.No.DRI/CZU/VIII/48/ENQ-1/INT-21/2017).
3. The Superintendent, Central Prison, Puzhal.
4. The Public Prosecutor, High Court of Madras.

SUNDER MOHAN, J.

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