



WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2025

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRL.OP No. 29910 of 2024

Sathya @ Pammal Sathya

...Petitioner

Vs.

The State Rep. by
The Inspector of Police
S-6 Shankar Nagar Police Station,
Tambaram, Chennai.Crime No. 629 of 2023

...Respondent

PRAYER : This petition has been filed under Section 483 of BNSS, 2023,
pleaded to enlarge the petitioner on bail in CC No. 228 of 2024 pending trial
on before of the Principal EC & NDPS Court, Chennai.

For Petitioner : Mr.C.Ragavan
For Respondent : Mr. V. Meganathan,
Government Advocate (Crl. side)

**ORDER**

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The petitioner, who was arrested and remanded to judicial custody on **11.10.2023** for the alleged offences punishable under Sections **8 (c) 22 (C), 29(1) of NDPS Act 1985 r/w. Section 4(b) of Explosive Substances Act, 1908 in crime No. 629 of 2023** on the file of the respondent, seeks bail.

2. The case of the prosecution is that the respondent police found the accused persons with possession of 0.110 grams of LSD stamp and country bomb and Patta knife. Hence, the case.

3. The learned counsel for the petitioner submitted that the petitioner has been falsely implicated in this case and he has been ranked as A1 among the other accused person. Further, he submitted that co-accused has been released on bail and also stated that the petitioner is in judicial custody for 1 year 3 months. Hence, he prayed to allow this petition.

4. The learned Government Advocate (Crl.side) raised objection to grant bail stating that contraband recovered from the petitioner is commercial quantity and other accused were released because the



contraband seized from them is non commercial quantity. Further, he stated that the petitioner is having 22 previous cases including 2 NDPS cases. Hence, he prays to dismiss the petition.

5. By way of reply, the learned counsel for the petitioner submits that in chemical analysis report 11 LSD stamps were weighing about 0.121 grams but in FIR it is mentioned as 0.110 grams hence the weight of stamp in FIR and the chemical report is inconsistent.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) for the respondent Police and perused the materials available on record, and taking note of the fact that the investigation is completed and the charge sheet has been filed and also taking into consideration the judgements of the Hon'ble Supreme Court in case of **Ankur Chaudhary vs. State of Madhya Pradesh**, wherein the **Hon'ble Supreme Court** held that “ it is to observe that failure to conclude the trial within a reasonable time resulting in prolonged incarceration militates against the precious fundamental right guaranteed under Article 21 of the Constitution of India, and as such, conditional liberty overriding the statutory embargo created under Section 37(1)(b) of the NDPS Act may, in



such circumstances, be considered' and the dictum laid down in the case in

Rabi Prakash vs. State of Odisha reported in 2023 SCC Online SC1109

that “ The Prolonged incarceration, general militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b) of the NDPS Act. Considering the period of incarceration undergone by the petitioner and also the ratio laid down by the Apex Court in the above cases, this Court is inclined to grant bail to the petitioner with the the following 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 (one blood surety and one local surety)**, each for a like sum to the satisfaction of the **learned Principal Special EC & NDPS Court, Chennai**, and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;



[b] the petitioner shall report before the Trial Court daily at 10.30 a.m, until further orders

[c] the petitioner shall not abscond either during investigation or trial;

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[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];**

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 269 of BNS.

23.01.2025

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To

1. The **Principal Special EC & NDPS Court, Chennai.**

2. The Inspector of Police
S-6 Shankar Nagar Police Station,
Tambaram, Chennai.



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3. The Central Prison-II, Puzhal Chennai.

4. The Public Prosecutor,
High Court of Madras.

T.V.THAMILSELVI, J.

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