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Crl.O.P.Nos.26786 and 27554 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **16-10-2025**

CORAM

THE HONOURABLE MR JUSTICE K. RAJASEKAR

CRL OP NOS. 26786 and 27554 of 2025

- | | |
|-----------------|---|
| 1. Abhishek | ... Petitioner in Crl.O.P.No.26786 of 2025 / A2 |
| 2. Lingeshwaran | ... Petitioner in Crl.O.P.No.27554 of 2025 / A3 |

Vs

The State rep. by,
The Inspector of Police,
M-1, Madhavaram Police Station,
Chennai - 600 110.
(Crime No.564 of 2025)

... Respondent

PRAYER : Criminal Original Petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, to grant bail to the petitioners/accused in Crime No.564 of 2025 on the file of the respondent police.

For Petitioner in Crl.O.P.No.26786 of 2025: Mr. P. Wilson, Senior Advocate
Assisted by Mr. M. Kabilesh

For Petitioner in Crl.O.P.No.27554 of 2025: Mr. G. Vinodhkumar

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



ORDER

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The petitioners, who were arrested and remanded to judicial custody on 22.08.2025, for the offences punishable under Section 8(c) r/w 22(b), 22(c), 25 and 29(1) of NDPS Act in Crime No.564 of 2025, registered on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 22.08.2025 at about 09:30 hours, based on a secret information regarding illegal transportation and selling of ganja, the police party went near Arul Nagar Ground, Madhavaram and based on the identification given by the informant, the petitioners and other accused persons were surrounded by the police party; that after identifying them and compliance of Section 50 of the NDPS Act, the petitioners and other accused were searched; that upon search, it is found that the petitioner/ Abhishek, who arrayed as A2 in this case was found in illegal possession of 7 nos. of LSD Stamp - 0.12 Mg and the petitioner/ Lingeshwaran, who arrayed as A3 in this case was in possession of 2.70 grams of Methamphetamine; that A1 was found in possession of 11.60 grams of MDMA Estacy Pills tablet - 23 nos. and A4 and A5 each were found in possession of 2.30 grams of Methamphetamine; that upon further investigation, two other accused/ A6 & A7



were also arrayed as accused in this case.

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3. The learned counsel appearing for the petitioner submitted that the petitioners went to Arul Nagar Ground, Madhavaram at about 09:00 a.m. on 22.08.2025, they have been falsely implicated in this case and they are in judicial custody since 22.08.2025. He further submitted that the petitioners were alleged to be in possession of intermediate quantity of contraband and further contended that since the seizure was taken place in a public place, the samples were not taken in the presence of learned Magistrate and no public witnesses were utilized in this case, hence Section 50 of the NDPS Act has not been complied with. He also relied on the judgment of the Hon'ble Apex Court in *Mohd. Muslim vs. State (NCT of Delhi) [AIR 2023 SC 1648]* and *Yusuf vs. State [AIR 2023 SC 5041]* and the judgment of the High Court of Allahabad in *Jamil Akhtar Miyan vs. Union of India [MANU/UP/0140/2024]* to support his contention; and that the petitioner is ready to abide by any conditions that may be imposed by this Court and sought for bail to the petitioners.

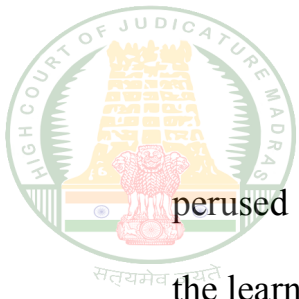
4. The learned Government Advocate (Criminal Side) appearing for the respondent while opposing the bail to the petitioners, reiterated the prosecution case and stated that there are totally seven accused involved in this



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case and the petitioners herein are arrayed as A2 and A3; that the contraband seized from the petitioner/ Abhishek is 7 nos. of LSD stamp - 0.12 Mg and from the petitioner/ Lingeshwaran is 2.70 grams of Methamphetamine and the total quantity of contraband involved in this case is 7.30 grams of Methamphetamine, MDMA Estacy Pills Tablet - 23 nos., weighing 11.60 grams and, which falls under commercial quantity, hence rigors of Section 37 of the NDPS Act is applicable to the present case. He further submitted that upon investigation, it is revealed that the petitioners and other accused persons were all working together as a group for illegal trafficking of contraband from various places and also selling the same to general public for monetary gain; that all the accused know about the illegal possession of contraband with each of them. He further submitted that though no public witnesses were utilized at the time of taking samples, the judgments referred by the learned counsel for the petitioners cannot be considered at this stage, since in those cases, the Hon'ble Apex Court has considered the case of the persons, who were in custody for a longer period and evidence regarding the seizure was also recorded by the Trial Court, whereas the present case is under the stage of investigation and that the lab report is also yet to be obtained.

5. I have considered the submissions made on either sides and



perused the materials available on record, including the citations referred by the learned counsel for the petitioners:

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6. The Hon'ble Apex Court in **Mohd. Muslim vs. State (NCT of Delhi)** cited supra has considered the bail application of the petitioner therein, after taking note of the fact that the petitioner therein was in prison for nearly 7 years.

7. The Allahabad High Court in **Jamil Akhtar Miyan vs. Union of India** cited supra has considered the bail application of the petitioner therein, who was in incarceration for nearly 2 years and held that the sampling was not done in accordance with Section 52A of the NDPS Act, further the Court has considered the validity of the sampling based on the judgement of the Hon'ble Apex Court in **Union of India Vs. Mohal Lal [(2016) 3 SCC 379]** and **Yusuf vs State** cited supra.

8. In this case, the petitioners have been arrested on 22.08.2025 and the investigation is in preliminary stage and considering the verocity and validity of sampling at this point of time cause prejudice to both sides, hence this Court is of the view that considering the validity of taking sample at this



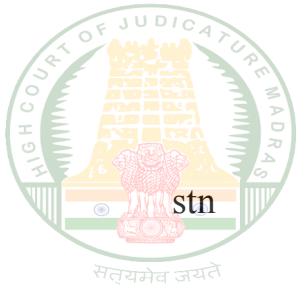
point of time is not proper and the same would be appropriate only after filing of final report.

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9. The next contention of the learned counsel for the petitioners is that, the contraband alleged to have been seized from the petitioners herein is of intermediate quantity, hence rigors of Section 37 of the NDPS Act is not applicable to the present case. However, on careful perusal of the prosecution case as on today, it reveals that the petitioners along with other accused acted jointly, came together to the spot with a common object and intention of illegal trafficking and selling of various types of contraband to the general public and also the fact that they were also aware of the possession of contraband with each other, hence segregation of possession of each person for the purpose of determining applicability of commercial quantity at this stage is not possible. Considering the total quantity of various types of contraband involved in this case, I am of the view that rigors of Section 37 of the NDPS Act is applicable to the present case.

10. Accordingly, these criminal original petitions stand dismissed.

16.10.2025



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To

1. The Inspector of Police,
M-1, Madhavaram Police Station,
Chennai - 600 110.
(Crime No.564 of 2025)
2. The Public Prosecutor,
High Court of Madras.

K. RAJASEKAR, J.

stn



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