



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. 207 of 2025

B.Shahbas

...Petitioner

Vs.

The State Rep. by
The Inspector of Police
Masinagudi Police Station,
Nilgiris District.Crime No. 164 of 2023

...Respondent

PRAYER : This petition has been filed under Section 483 of BNSS, 2023,
pleaded to release the petitioner/accused No.3 on bail in crime No. 164 of
2023 in C.C No.17 of 2024 on the Additional District Judge for EC and
NDPS Act Cases, Coimbatore.

For Petitioner : Mr. N. Mani Maran
For Respondent : Mr. V. Meganathan,
Government Advocate (Crl. side)

**ORDER**

WEB COPY

The petitioner, who was arrested and remanded to judicial custody on **27.10.2023** for the alleged offences punishable under Sections **8 (c) , r/w 22(c) , 25 and 29(i) of NDPS Act 1985 in crime No. 164 of 2023** on the file of the respondent, seeks bail.

2. The case of the prosecution is that on searching vehicle bearing Reg. No. KL11AY2200 the respondent police found 120 grams of MDMA from the accused persons. Hence, the case.

3. Heard both sides.

4. The submission of the learned counsel for the petitioner is that the the petitioner has been falsely implicated in this case and ranked as A4 among the other accused persons and he is under the custody for the past 14 months. Further, the contraband is recovered only from A1 but the petitioner has been falsely implicated in this case and there is no previous case against the petitioner. Hence, he prays to allow this petition.

5. The submission of the learned Government Advocate (Crl.side) is



that all the accused conspired together and transported the contraband, while unloading the contraband from the car the respondent police arrested the accused persons. Hence, he raised objection to grant bail.

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 contraband was not seized from the petitioner and also there is no bad antecedents against the petitioner. Further, P.W.1 also examined in Trial. Hence, 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 Special Principal District and Sessions Judge for EC and NDPS Cases, Coimbatore**, 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 on every Friday at 10.30 a.m, and shall appear before the respondent police on every Sunday at 10.30 a.m. for a period of four months;



WEB COPY



[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

pbl

To

1. The **Special Principal District and Sessions Judge for EC and NDPS Cases, Coimbatore,**
2. The Inspector of Police
Manisnagudi Police Station,



Nilgiris District.

3. The Central Prison, Coimbatore.

4. The Public Prosecutor,
High Court of Madras.

T.V.THAMILSELVI, J.

pbl



WEB COPY



CRL.OP No. 207 of 2025

23.01.2025