



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. 706 of 2025

M. Abdul Rahman Yertzath
@ M.Abdul Rahman Ershad

...Petitioner

Vs.

The State Rep. by
The Inspector of Police
NIB CID,
Chennai. Crime No. 30 of 2023

...Respondent

PRAYER : This petition has been filed under Section 483 of BNSS, 2023,
pleaded to enlarge the petitioner on bail pending in C.C. No. 449 of 2024 on
the file of the Hon'ble II Additional Special Judge, Special Court for EC &
NDPS Act.

For Petitioner : Mr.S.Kasirajan
For Respondent : Mr. V. Meganathan,
Government Advocate (Crl. side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on **13.12.2023** for the alleged offences punishable under Sections **8 (c) r/w 22(c) and 29(1) of NDPS Act in crime No. 30 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 1kg of Methaqualone. Hence, the case.

3. The learned counsel for the petitioner submitted that the petitioner has been falsely implicated in this case and there is no recovery from this petitioner. Further, the petitioner is under the judicial custody for the past one year. Hence, he prayed to allow this petition.

4. The learned Government Advocate (Crl.side) raised objection to grant bail stating that the petitioner is the supplier of the contraband, who is indulged in buying and selling the contraband.

5. By way of reply, the learned counsel for the petitioner submits that the amount sent through Google pay was failed to that effect he produced the



copy of the Google pay transaction.

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5. 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 ratio laid down by the Apex Court in the above cases and also the period of incarceration undergone by the petitioner and also there is no recovery from



this petitioner and no bad antecedents against him. Hence, this Court is inclined to grant bail to the petitioner with the the following conditions.

6. 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 II Additional Special Judge, Special Court for EC and NDPS Act, 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, for a period of three months;

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

[d] the petitioner shall not tamper with evidence or



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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.

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To

1. The **II Additional Special Judge, Special Court for EC and NDPS Act, Chennai.**



2. The Inspector of Police
NIB CID,
Chennai.

3. The Central Prison, Puzhal Chennai.

4. The Public Prosecutor,
High Court of Madras.

T.V.THAMILSELVI, J.

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