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Crl.OP.No.32308 of 2024
Crl.O.P.No.3885 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.OP.No.32308 of 2024
and Crl.O.P.No.3885 of 2025

Manoj Kumar Mahiji ... Petitioner(s) /Accused 1 in
Crl.O.P.No.32308 of 2024

Amankumar ... Petitioner(s) /Accused 2 in
Crl.O.P.No.3885 of 2025

Vs.

The State rep. by
The Inspector of Police,
PEW Erode Police Station
Erode District
Crime No.477 of 2024

... Respondent(s)/ Complainant
in both Crl.O.P's

Prayer in Crl.O.P.No.32308 of 2024: Criminal Original Petition filed under Section 483 of BNSS 2023, to enlarge the petitioner on bail pending investigation in Crime No.477 of 2024, on the file of the respondent Police.

Prayer in Crl.O.P.No.3885 of 2025: Criminal Original Petition filed under Section 483 of BNSS 2023, to enlarge the petitioner on bail pending



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investigation in Crime No.477 of 2024, on the file of the respondent Police.

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For petitioner(s) : Mr.M.N.Balakrishnan

For Respondent(s) : M/s.J.R.Archana
Government Advocate (Criminal Side)

COMMON ORDER

These Criminal Original Petitions had been filed by the petitioners, who were arrested and remanded to judicial custody on 24.05.2024, seeking bail in Crime No.477 of 2024, registered for the offences under Sections 8(c) r/w Sections 20(b)(ii)(C) and 25 of NDPS Act.

2.It is the case of the prosecution that on secret information the A1/Manoj Kumar Mahiji, the petitioner in Crl.O.P.No.32308 of 2024 was intercepted and 20.600 kgs of Ganja was seized from him; that on his confession it was revealed that the A2/Amankumar, the petitioner in Crl.O.P.No.3885 of 2025 came to purchase the contraband from A1 and thus both the accused committed the aforesaid offences.



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3.The learned counsel for the petitioners would submit that both the petitioners were in custody from 24.05.2024; that considering the period of incarceration; the fact that the trial is not likely to be completed in the near future, and considering the law laid by the Hon'ble Supreme Court in ***Rabi Prakash vs. State of Odisha*** reported in **2023 SCC Online SC 1109**, the petitioners may be released on bail.

(ii)The learned counsel for the petitioners further submitted that in so far as A2 is concerned, the petitioner in Crl.O.P.No.3885 of 2025 no contraband was seized from him and hence A2 has satisfied the twin conditions under Section 37 of NDPS Act and prayed for grant of bail for A2.

4.The learned Government Advocate (Criminal side) reiterated the prosecution case and also filed a counter affidavit and submitted that the contraband was seized from A1; that he has to satisfy the twin conditions under Section 37 of NDPS Act which has not been done and hence opposed the grant of bail to the petitioners.



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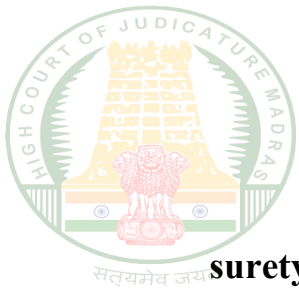
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5.This Court has carefully considered the rival submissions.

6.It is seen that though the A1 and A2 were present at the scene of occurrence, the contraband was seized from A1. As per the confession of A1, A2 had come to purchase contraband from him. No contraband was seized from A2. Further A2 has no bad antecedents. Apart from the confession the only other material relied upon by the prosecution to link A2 into A1 is that he made a few calls in his mobile phone to him.

7.Considering the aforesaid facts, this Court is of the view that A2 has satisfied the twin conditions under Section 37 of NDPS Act. Further he is in custody from 24.05.2024. Hence, this Court is inclined to grant bail to the A2/Amankumar, the petitioner in CrI.O.P.No.3885 of 2025 with certain conditions.

8.Accordingly, A2 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, **one surety should be a blood surety and another**



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surety should be a local surety, each for a like sum to the satisfaction of the learned Additional District Judge, Presiding Officer, Special Court for EC Act Cases, Coimbatore, and on further conditions that:-

(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)[b] the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders. If any deviation in complying any of the conditions, 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 investigation or trial;

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

(f) on breach of any of the aforesaid conditions, the



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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 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 accused thereafter absconds, a fresh FIR can be registered under Section 269 B.N.S.

9.Insofar as A1 is concerned, he was in possession of commercial quantity of Ganja. He has not satisfied the twin conditions under Section 37 of NDPS Act, and hence this Court is not inclined to grant bail to A1 at this stage. Accordingly, Crl.O.P.No.32308 of 2024 is dismissed.

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Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
Internet: Yes/No
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SUNDER MOHAN, J.

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To

1. The The Inspector of Police,
PEW Erode Police Station
Erode District.
2. The Public Prosecutor,
Madras High Court,
Chennai.
3. The Central Prison, Coimbatore.
4. The Additional District Judge, Presiding Officer
Special Courts for EC & NDPS Act Cases, Coimbatore.



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