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Crl.O.P.No.29700 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2025

CORAM :

THE HON'BLE MR. JUSTICE K. RAJASEKAR

Crl.O.P.No.29700 of 2025

Shri Richard Yao

... Petitioner

-Vs-

The Superintendent of Customs,
Prosecution Unit-Airport,
New Custom House,
Meenambakkam,
Chennai – 600 027.
R.R.No.18/2023.

... Respondent

Prayer:- Criminal Original Petition filed under Section 483 of BNSS Act, 2023, pleaded to enlarge the petitioner on bail in C.C.No.437 of 2024 pending on the file of the learned II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai in R.R.No.18 of 2023.

For Petitioner : Mr.S.Kasirajan

For Respondent : Mr.P.Vishnu
Special Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 15.06.2023, for the alleged offence punishable under Section 8(c) r/w Sections



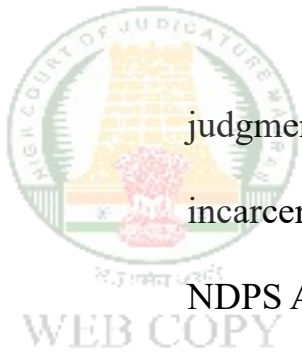
21(c), 23(c) and 28 of NDPS Act, in R.R.No.18 of 2023, on the file of the respondent police, seeks bail.

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2. The case of the prosecution is that the petitioner was found in possession of 2,826.92 grams of cocaine when he arrived by Ethiopian Airlines flight. The respondent police and Customs officials intercepted him and, after complying with the relevant statutory provisions, recovered the contraband from his possession. Upon compliance with the mandatory provisions of law, he was arrested and has been in judicial custody since then. It is further submitted that the petitioner is a foreign national and has been in custody for a considerable period. Hence, this petition has been filed seeking bail on the ground of prolonged incarceration, contending that the rigours of Section 37 of the NDPS Act may be dispensed with.

3. The learned counsel for the petitioner submitted that the petitioner has been in custody since 13.06.2023 and that there has been no substantial progress in the case. Though the petitioner engaged counsel as early as November 2024, and after framing of charges, L.W.1 was partly examined, there has been no further progress thereafter. It is further submitted that only recently, after the filing of the present petition, the respondent produced L.W.1 for further examination. Since the petitioner has been incarcerated for nearly two years, he prays that this Court may be pleased to grant bail.

4. The learned counsel for the petitioner further relied upon several



judgments of the Hon'ble Apex Court to contend that prolonged and continuous incarceration can be a valid ground to relax the rigours of Section 37 of the NDPS Act, and that bail has been granted in similar circumstances.

5. The learned Special Public Prosecutor appearing for the respondent police submitted that the petitioner was arrested in the year 2023 and has not cooperated with the investigation. He further submitted that the petitioner is a foreign national and that a commercial quantity, namely 2,826.92 grams of cocaine, was seized from him. It is also contended that the case involves international ramifications. He submitted that despite the filing of the complaint, the petitioner has not been cooperating with the proceedings. Hence, he strongly opposed the grant of bail to the petitioner.

6. I have also considered the submissions made on both sides and perused the record and also call for the report from the concerned Trial Court regarding the stage and co-operation rendered by the petitioner herein for the purpose of arriving satisfaction that whether there is a continuous incarceration without any trial.

7. In this regard, the report of the learned II Additional Special Judge, Special Court under NDPS Act, dated 14.11.2025 has held as follows:

“In the above case already charge were framed on 14.11.2024 and from 28.11.2024 the case is pending for examination of LW1. In the mean time the accused has filed a memo stating that he wants to engage a new counsel and on that basis subsequently on 20.08.2025



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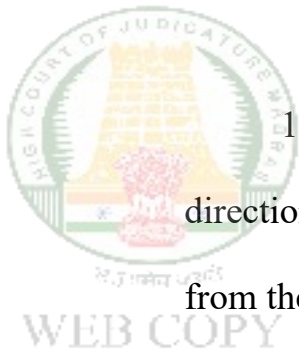


Advocate Mr.Kasirajan has entered appearance on behalf of the accused. Even afterwards in spite of summons issued to LW1 the prosecution namely the New Customs House, Airport has not produced LW1. Further I humbly submit in the above case there are 11 witnesses in total as given in memo of evidence by the prosecution.

Today PW1 has been examined in part in chief for more than one hour and it is adjourned to 17.11.2025 for chief continuation.”

8. The report of the Trial Court reveals that after the petitioner was arrested and the complaint was filed, the vakalat for the accused was filed on 22.10.2024. Thereafter, charges were framed and L.W.1 was summoned for examination. The report further discloses that the petitioner filed a memo stating that he intended to engage a new counsel and, on that basis, the case was repeatedly adjourned. Subsequently, on 20.08.2025, another Advocate entered appearance, and thereafter summons were issued to L.W.1 for cross-examination.

9. In view of the facts stated by the Trial Court, this Court is of the opinion that the petitioner has not extended proper cooperation for the expeditious conduct of the trial. Further, considering that the petitioner is a foreign national and was found in possession of a huge quantity of contraband, this Court is not inclined to take a lenient view in favour of the petitioner.



10. Accordingly, this Criminal Original Petition is dismissed with a direction to the trial Court to complete the trial within a period of six months from the date of receipt of copy of this order.

17.11.2025

drl

To

1.The Superintendent of Customs,
Prosecution Unit-Airport,
New Custom House,
Meenambakkam,
Chennai – 600 027.

2.The Special Public Prosecutor,
High Court, Madras.



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K. RAJASEKAR, J.

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