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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2025

CORAM :

THE HON'BLE MR. JUSTICE K. RAJASEKAR

Crl.O.P.No.29830 of 2025

Dharneeshwaran

... Petitioner

-Vs-

State Rep by,
The Inspector of Police,
PEW-Triplicane,
Chennai.
(Crime No.79 of 2025)

... Respondent

Prayer:- Criminal Original Petition filed under Section 483 of BNSS Act, 2023,
pleased to enlarge the petitioner on bail in Crime No.79 of 2025 on the file of
the respondent police.

For Petitioner : Mr.A. Nirmal Kumar Sharma

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 05.04.2025, for the offence punishable under Sections 8©, 20(b)(ii)(C), and 29(1) of the NDPS Act, 1985 in Crime No. 79 of 2025, registered on the file of the respondent, seek bail.



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2. The case of the prosecution is that on 27.06.2025 at about 9.00 hours, the Special Sub-Inspector of Police, received the secret information, proceeded to a scene of occurrence near Allikulam, Moor Market Complex, where A1 and A2 were found in a suspicious manner with bags and attempted to flee on seeing the police. During search, they were found in possession of 22.750 kg of ganja, which was seized under a mahazar in the presence of witnesses. They were thereafter arrested and their confession statements were recorded. Hence, the complaint.

3. Learned counsel appearing for the petitioner submitted that though it is stated that a total quantity of 22.750 kg of ganja was recovered, separate mahazars were prepared, and from A1, 12 kg of ganja was recovered, while from A2, 10.750 kg of ganja was recovered. Hence, it has to be treated as separate seizures, and the possession of the co-accused cannot be construed as conscious possession of the petitioner herein. He further submitted that there is no other material to connect both the petitioners with the allegation of conspiracy or transportation of the contraband from Andhra Pradesh to the place of seizure. He also submitted that Section 37 of the NDPS Act is not applicable to the petitioner and that, in the absence of any material connecting the petitioner with the contraband seized from the co-accused A1, the petitioner



cannot be held liable for the same. Hence, he prayed for the grant of bail to the petitioner.

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4. Learned Government Advocate (Crl.Side) reiterated the prosecution case and submitted that though it is stated that two separate mahazars were prepared and two seizures were effected, admittedly both the accused were intercepted at the same time by the police at an isolated place, after noticing communication between them. It was further submitted that both accused came together and were involved in trafficking 22.750 kg of ganja, and hence they were arrested. He further submitted that the information received by the respondent police, even prior to the arrest, indicated that the two persons were carrying commercial quantity of contraband, which was reduced into writing, and only thereafter the search and seizure were done. He further submitted that a total of 22.750 kg of ganja was recovered and that, prima facie, there are materials against the petitioner herein. Hence, he opposed the grant of bail to the petitioner.

5. Heard both sides and perused the materials available on record including the First Information Report.

6. I have perused the records and other connected materials and also considered the submissions made by the learned counsel appearing on either side. Though it is stated that two separate mahazars were prepared and two searches and seizures were effected, the fact remains that the police party had



received prior information regarding the transportation of ganja by two persons near Allikulam, Moor Market. After reducing the said information into writing and obtaining authorisation from the Special Officer, the police party proceeded to the spot and noticed that the petitioner and the other accused were together at an isolated place, communicating with each other and carrying bags.

7. Thereafter, the police party identified themselves, complied with the mandatory provisions, and conducted the search and seizure. In such circumstances, it cannot be held that there is no material to support the allegation of conspiracy against the petitioner herein. It is well settled that conspiracy has to be inferred from the facts and circumstances of each case. In the present case, the circumstances such as the presence of the petitioner and the other accused at an isolated place carrying bags, their communication with each other, and their waiting for someone to arrive, constitute prima facie material.

8. The petitioner has not offered any explanation for his presence at the place of occurrence along with the other accused. It is also admitted that contraband was recovered from both persons. These facts prima facie establish that they were aware of each other's possession of ganja. Though it is contended that there is no material to show that the petitioner transported or purchased ganja from Andhra Pradesh, the fact remains that seizures were effected from both the accused at the same place and time along with other accused persons.



The contention that they were not in conscious possession of each other's contraband is, therefore, not sustainable and Section 37 of NDPS Act is applicable and the petitioner failed to satisfy the twin conditions of Section 37 of NDPS Act.

9. In view of the above facts and circumstances of the case, this Court is not inclined to grant bail to the petitioner. Accordingly, the Criminal Original Petition is dismissed.

16.12.2025

drl

To

1. The Inspector of Police,
PEW-Triplicane,
Chennai.

2. The Public Prosecutor,
High Court, Madras.



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K. RAJASEKAR, J.

drl

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