



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.11.2025

Coram:

The Honourable Mrs.Justice T.V.THAMILSELVI

Crl.R.C.No.2399 of 2025

Bazeer Ahamed

...Petitioner

Versus

State Rep. by
Inspector of Police,
H-1, Washermenpet Police Station.
(Crime No.06/2024)

...Respondent

This Criminal Revision Case is filed under Sections 438 r/w. 442 of BNSS praying to set aside the order passed by the learned Special Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai in Crl.M.P.No.6012 of 2025 dated 15.10.2025 in C.C.No.779 of 2024 and discharge the petitioner from the charges raised against him in C.C.No.779 of 2024.

For Petitioner : Mr.D.Manojkumar

For Respondent : Dr.C.E.Pratap,
Government Advocate (Crl.Side)



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ORDER

This Criminal Revision Case has been filed by the Petitioner seeking to set aside the Order dated 15.10.2025 in CrI.M.P.No.6012 of 2025 in C.C.No.779 of 2024 passed by the learned Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai and discharge him from the charges raised against him in C.C.No.779 of 2024.

2. The case of the prosecution is that on 03.01.2024, at about 5.00 p.m., the Sub Inspector of Police who was in station duty at H-1 Old Washermenpet Police Station, Chennai received a secret information that two unknown persons are standing near Kannan Roundana Bus Stop for the purpose of selling the addictive substance viz., Methamphetamine, pursuant to which, the Respondent Police and their team went to Kannan Roundana Bus Stop, where, they found that two persons viz., Ansar Jilani and Sheik Dawood were standing with a two wheeler viz., Honda Activa bearing Registration No.TN 05 CM 5841. The Respondent Police seized 2 Kilograms of Methamphetamine and 5 Mobile Phones from Ansar Jilani & Sheik Dawood and arrested them. Thereafter, on 04.01.2024, Respondent Police had registered a case in Crime No.06 of 2024 against the said Ansar



Jilani & Sheik Dawood under Sections 8(c) r/w. 22(c), 25, 29(i) of NDPS Act. During enquiry, Ansar Jilani & Sheik Dawood confessed that they have purchased the said Addictive substance from one Bazeer Ahmed (Petitioner herein) and selling the same to the college students and general public for their personal gain. Based on the confession of Ansar Jilani & Sheik Dawood, the Respondent Police had arrested the Petitioner and remanded him into judicial custody on 10.12.2024. After the completion of investigation, the Respondent Police had filed a Charge Sheet against the accused viz., Petitioner (Accused No.1), Ansar Jilani (Accused No.2) and Sheik Dawood (Accused No.3) before the II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai. The said Charge Sheet was taken on file in C.C.No.779 of 2024. In this background, Petitioner/Accused No.1 had filed a petition in CrI.M.P.No.6012 of 2025 in C.C.No.779 of 2024 before the II Additional Special Court under EC & NDPS Act, Chennai seeking to discharge him from the case in C.C.No.779 of 2024. The learned Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai vide Order dated 15.10.2025, dismissed the said petition. Aggrieved by the same, Petitioner has filed the present Criminal Revision Case before this Court.



3. The learned counsel for Petitioner submitted that Petitioner was arrested only based on the confession statement given by Accused Nos.2 & 3, except the said confession statement, there is no other incriminating material produced by the prosecution to prove that the Petitioner had involved in the illegal sale or transportation of contraband.

3.1. It is further submitted by the learned counsel for Petitioner that the Respondent Police had recovered 2 Kilograms of Methamphetamine from the Accused Nos.2 & 3 only and not from the Petitioner. That apart, in the present case, the Respondent Police filed the FIR on 04.01.2024, but, the Petitioner was arrested by the Respondent Police only on 10.12.2024 i.e., after a lapse of 11 months from the date of filing of FIR.

3.2. The learned counsel for Petitioner also submitted that the Petitioner is 55 years old and he has been under the judicial custody since 10.12.2024. Therefore, the learned counsel for Petitioner prayed that the impugned order may be set aside and the Petitioner may be discharged from the case in C.C.No.779 of 2024 on the file of II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai.



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3.3. It is submitted by the learned counsel for Petitioner that while dealing with an identical issue in the case of ***K.Raguraj Vs. State rep. by the Inspector of Police, Ambattur Police Station, Chennai*** (Order dated 07.08.2025 in *Crl.R.C.No.1002 of 2025*), this Court has discharged the Petitioner/Accused therein from the criminal proceedings. The relevant portion of the said order reads as under:

*“7. Now, the only question arises in this Revision is that whether the accused can be discharged, if the charges are framed only on the basis of the confession statement of the co-accused. In this regard, the learned counsel for the petitioner relied upon the Judgment of Hon’ble Supreme Court of India in **SLP (Crl) 10736 of 2022 dated 19.12.2024** in which it is held that the sole material available against the appellant is the confession statement of the co-accused, which undoubtedly cannot translate into admissible evidence at the stage of trial and against the appellant. When that be the position, how can it be said that a prima facie case is made out to make the appellant to stand the trial. There can be no doubt with respect to the position that standing the trial is an ordeal and, therefore, in a case where there is no material at all which could be translated into evidence at the trial stage it would be a miscarriage of justice to make the person concerned to stand trial.*

*8. Further, it is also relevant to rely upon the judgment of **Hon’ble Supreme Court reported in (2019) 16 SCC 547 in***



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Dipakbhai Jagadishchandra Patel v. State of Gujarat and Another
wherein at Paragraph No.24 it is held as follows:-

“Undoubtedly, this Court has in Suresh Budharmal Kalani [Suresh Budharmal Kalani v. State of Maharashtra, (1998) 7SCC337], taken the view that confession by a co-accused containing incriminating matter against a person would not by itself suffice to frame charge against it. We may incidentally note that the Court has relied upon the judgement of this Court in Kashira Singh v. State of M.P. [Kashmira Singh v. State of M.P., (1952) 1 SCC 275]. We notice that the observations, which have been relied upon, were made in the context of an appeal which arose from the conviction of the appellant therein after a trial. The same view has been followed undoubtedly in other cases where the question in the context of a conviction and an appeal therefrom. However, in Suresh Budharmal Kalani [Suresh Budharmal Kalani v. State of Maharashtra, (1998) 7SCC337], the Court has proceeded to take the view that only on the basis of the statement of the co-accused, no case is made out, even for framing a charge.”

9. Thus it is clear that the confession of co-accused containing incriminating materials would not itself suffice to frame charge against him, therefore, in the case on hand also, the respondent filed final report and charge against the petitioner for the offence under Sections 8(c), 22(c), 25 & 29 of NDPS Act, 1985



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was framed only on the basis of the confession statement of the 3rd accused, as stated supra. Further, there was absolutely no recovery of contraband or any material relevant to contraband. Though the petitioner was involved in another case, similar to the present case, it is not the basis for framing charges in this case.

10. In the case which is relied upon by the learned Government Advocate (Crl.Side), the Hon'ble Supreme Court in Sajjan Kumar's case, as stated supra, has laid down the principles for discharge and the same is extracted as follows:-

"21. On consideration of the authorities about the scope of Sections 227 and 228 of the Code, the following principles emerge:

(i) The Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.

The test to determine prima facie case would depend upon the facts of each case.

(ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.

(iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the



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evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

(iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

(v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

(vi) At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.



(vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.”

11. Therefore, as per these guiding principles, if two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial court can discharge the accused without seeing whether the trial will end in conviction or acquittal. Therefore, when there is absolutely no material as against the petitioner to frame charge for offences under Sections 8(c), 22(c), 25 & 29 of NDPS Act, 1985, the trial court ought not have dismissed the petitioner to discharge.

In view of the above, the order passed by the trial court in Crl.M.P.No.857 of 2025 in C.C.No.876 of 2024 dated 26.05.2025 cannot be sustained and the same is set aside. The petitioner is discharged in respect of all the charges and the present revision is allowed.”

4. On the other hand, the learned Government Advocate (Crl.Side) appearing on behalf of the Respondent Police submitted that Accused Nos.2 & 3 had confessed that they have purchased 2 Kilograms of Methamphetamine from Petitioner/Accused No.1 for Rs.13,50,000/-. The Petitioner/Accused No.1 is instrumental in trafficking the said contraband



through other accused. Further, two other criminal cases are pending against the Petitioner/Accused No.1. Therefore, the learned Government Advocate (Crl.Side) made serious objection for discharging the Petitioner from the case in C.C.No.779 of 2024 and prayed for dismissal of this Criminal Revision Case.

5. Heard the learned counsel on either side and perused the materials available on record.

6. In the present case, the Respondent Police had arrested two persons viz., Ansar Jilani (Accused No.2) and Sheik Dawood (Accused No.3) who were in possession of 2 Kgs of Methamphetamine. During enquiry, Accused Nos.2 & 3 have confessed that they have purchased 2 Kilograms of Methamphetamine from Petitioner/Accused No.1. Based on the confession statement of Accused Nos.2 & 3, Respondent Police arrested the Petitioner/Accused No.1 on 10.12.2024. After the completion of investigation, Respondent Police had filed the Charge Sheet before the Court below and the said Charge Sheet was taken on file in C.C.No.779 of 2024.



7. From a perusal of records, it is seen that the Respondent Police filed the FIR on 04.01.2024, but, they arrested the Petitioner on 10.12.2024 i.e., 11 months after the filing of FIR. It is also seen that the contraband, Methamphetamine was seized from the Accused Nos.2 & 3 and not from the Petitioner/Accused. That apart, on the date of occurrence, there was no telephonic conversation or messages between the Petitioner and other accused.

8. As far as this case is concerned, except the confession statement of Accused Nos.2 & 3, there was no other incriminating material was produced by the prosecution as against the Petitioner. Therefore, it is crystal clear that there is no *prima facie* material to proceed against the Petitioner. However, without considering all these aspects, the learned Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai has erroneously dismissed the discharge petition filed by the Petitioner.

9. Considering the above facts and circumstances of the case and following the dictum laid down by the Honourable Supreme Court in the case of *Sajjan Kumar Vs. Central Bureau of Investigation* reported in



(2010) 9 SCC 368, this Court is inclined to allow this Criminal Revision Case by setting aside the impugned order and to discharge the Petitioner from the criminal case pending against him.

10. Accordingly, this Criminal Revision Case is allowed and Order dated 15.10.2025 in CrI.M.P.No.6012 of 2025 in C.C.No.779 of 2024 passed by the learned Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai is set aside. Consequently, Petitioner is discharged from the case in C.C.No.779 of 2024 on the file of II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai.

24.11.2025

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Index: Yes/No
Speaking Order (or) Non-Speaking Order

To

- 1.II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai.
- 2.The Inspector of Police,
H-1, Washermenpet Police Station.
- 3.The Public Prosecutor,
High Court, Madras.

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T.V.THAMILSELVI, J.

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