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Crl.OP.No.33551 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2025

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THE HONOURABLE MR JUSTICE **K.RAJASEKAR**

Crl.O.P.No.33551 of 2025

K.Ganesh Babu

... Petitioner

Vs.

State, Rep by
Inspector of Police,
F-3, Arambakkam Police Station,
Thiruvallur District.
(Cr.No.114 of 2022)

... Respondent

PRAYER : Criminal Original Petition filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023, to enlarge the petitioner on bail pending in
C.C.No.187 of 2023 on the file of the Principal Special Judge, Special Court
for Exclusive Trial of Cases under EC & NDPS Act, at Chennai.

For Petitioner : Mr.S.Karthikeyan for
MR.D.Sugumar

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on
28.12.2022 for the alleged offence under Section 8(c) r/w 20(b)(ii)(c), 25
and 29(1) of NDPS Act, in C.C.No.187 of 2023 pending on the file of the



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the Principal Special Judge, Special Court for Exclusive Trial of Cases under EC & NDPS Act, at Chennai, seeks bail.

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2. This petition seeking bail has been filed by A3 in C.C.No.187 of 2023 pending before the learned Principal Special Court for Exclusive Trial of Cases under EC & NDPS Act, at Chennai.

3. The respondent had initially registered FIR in Cr.No.114 of 2022 for offences punishable under Sections 8(c) r/w 20(b)(ii)(C), 25 and 29(1) of NDPS Act, 1985 on 28.05.2022. The petitioner had been arrayed as an accused on the confession statement of the first accused. The petitioner had been remanded to judicial custody on 28.12.2022.

4. It is the case of the prosecution that on 28.05.2022 at around 4.30 p.m., information had been received about transportation of ganja. The information had been entered in the General Diary. The respondent then intercepted a mini lorry bearing Regn.No.MH-05-AM-1243 near Arambakkam Police Station, opposite GNT Road, Check Post. The first accused, driver of the vehicle was found in possession of 235 kgs of ganja. He was arrested and remanded to custody. The seized materials were also



produced before the learned Principal Special Court for Exclusive Trial of Cases under EC & NDPS Act, at Chennai. FIR in Cr.No.114 of 2022 had been registered for offences 8(c) r/w 20(b)(ii)(C), 25 and 29(1) of NDPS Act, 1985.

5. The further case of the prosecution is that the first accused revealed that the contraband was being transported from Andra Pradesh to Madurai under instructions of the present petitioner who had been arrayed as A3. Further, the second accused was also arrested and this petitioner was arrested on 28.12.2022 and remanded to custody. After completion of investigation, final report was filed before the learned Principal Special Court for EC and NDPS Cases at Chennai and the same was taken cognizance as CC.No.187 of 2023.

6. The learned counsel for the petitioner submitted that this Court in Crl.O.P.No.28798 of 2024, by order dated 20.12.2024, dismissed the bail application of the petitioner on the ground that the petitioner is having two previous cases. One of the criminal cases has ended in acquittal; in another case, he has been granted bail in Crl.M.P.No. 2306 of 2022 dated 28.12.2022 by the 1st Additional Sessions Judge, Rajamahandravaram



(Andra Pradesh). He further submitted that at the time of dismissal of the Crl.O.P.No.18698 of 2025, the order of the acquittal and the bail application granted in other case is not brought to the knowledge of the Court. He further submitted that the co-accused in this case from whom the recovery was effected was also already granted bail by the Apex Court in SLP.No.4523 of 2024 by order dated 30.04.2024 on the ground that the petitioner therein was in continuous incarceration for nearly two years and there was no progress in the trial. In this case also, after dismissal of the earlier bail applications, on 20.12.2024 there is no progress in the trial though the petitioner is in incarceration and cooperating with the trial process. Hence, prays to grant bail on the ground of continuous incarceration. He further submitted that except the confession statement, no other material were produced for supporting the prosecution case. Hence, prayed to grant bail to the petitioner.

7.The learned Government Advocate (Crl.Side) appearing for the respondent reiterated the prosecution case and submitted that this Court has categorically held while passing the order in Crl.O.P.No.28798 of 2024 that the petitioner is having two previous cases and he is also main accused in this case and made financial assistance for the transportation of the Ganja.



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He further relied on para 10 of the order passed by this Court in

Crl.OP.No.28798 of 2024 dated 20.12.2024, which reads as follows:

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10. One of the primary requirements is that two conditions will have to be satisfied namely, that the petitioner is not guilty of the offence and that the petitioner will not commit similar offence or is not likely to commit a similar offence if granted bail. The petitioner had already committed two earlier offences though he is on bail. It is evident that he has the habit of being involved in transportation of ganja. He therefore fails in satisfying the second condition. So far as the first condition is concerned, it is no doubt true that he had been arrested on the confession of the first accused but he is the financier of the entire purchase and transportation of the ganja and therefore, he is in the central person involved in the offence. Eventhough, the Hon'ble Supreme Court had granted bail to the second accused, who was also arrested on the confession of the first accused, one distinguishing fact is that there are two earlier cases against this petitioner and this petitioner is said to have financed the entire purchase and transportation of ganja which allegations are not levied against the second accused.



8. He further submitted that the petitioner herein is also having two previous cases of similar in nature and though it is stated that he is acquitted in one of the cases, if he is released on bail there is likelihood that he will indulge in similar offences. Hence opposed to grant bail to the petitioner.

9. I have gone through the submissions made on both sides and perused the records. In the order passed by the Apex Court in SLP.No.4523 of 2024, it has been specifically observed that the petitioner therein who was arrested in the year 2022 and taken note of the fact that the trial has not commenced, hence, granted bail with the following conditions:

'8. It goes without saying that the respondent-state shall be at liberty to file appropriate application seeking cancellation of bail in case any of the conditions that may be imposed by the trial Court are violated or breached by the appellant, or the appellant does not co-operate with the trial Court during the course of the trial.'

10. After passing of the order of the Apex Court, this Court has dismissed the bail application of the petitioner in Crl.O.P.No.28798 of 2024 dated 20.12.2024, on the reasons stated above in para 7 of this order.

This Court has also called for the report from the trial Court regarding the

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present stage of the case. It is stated in the report of the concerned Court as follows:

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“Initially he had been shown as an absconding accused in the FIR. Perusal of records would show that subsequently formal arrest was made and remanded to custody on 28.12.2022, since then he had been in judicial custody. Charge sheet had been filed and having taken cognizance C.C.No.187 of 2023 was assigned. Copies were furnished upon all the accused and charges had been framed on 20.03.2025, read over and also the accused pleaded not guilty. The quantity of contraband sized from the co-accused was 235 kgs of ganja and the case is of commercial in nature. The case stood posted for trial. Whiles, it had been informed that LW1 seizing officer was no more and as such, the case stand posted for examination of further witnesses. The next hearing date is 31.12.2025.”

11. The report of the trial Court revealed that there is no progress in the trial process. Further the co-accused in this case also granted bail for the very same reasons pointed out by the Apex Court in SLP.No.4523 of 2024. Even after dismissal of the earlier bail application on 18.09.2025, there was no progress in the trial. Apart from that though it is stated that two previous



cases were cited against the petitioner herein, now it is stated that one case is ended in acquittal and in another case, he has already been granted bail.

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12. Considering the above facts, I am of the view that the petitioner is also similarly placed with the other accused who was granted bail by the Apex Court in SLP.No.4523 of 2024 and the same reason is applicable to the petitioner herein. Therefore, this Court is inclined to grant bail to the petitioner with certain conditions.

13. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.20,000/- (Rupees Twenty Thousand only)** with two sureties, for a like sum to the satisfaction of the *learned Principal Special Judge, Special Court under EC & 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., until further orders.

[c] the petitioner shall not abscond either during



investigation or trial;

[d] the petitioner shall not tamper with the evidence or 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 absconds, a fresh FIR can be registered under Section 269 B.N.S.

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To

1. Principal Special Judge, Special Court under EC & NDPS Act, Chennai.

2. Inspector of Police,
F-3, Arambakkam Police Station,
Thiruvallur District.

3. The Superintendent, Central Prison, Puzhal-II, Chennai.

4. The Public Prosecutor,
High Court of Madras.



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K.RAJASEKAR, J.

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