



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2025

CORAM :

THE HON'BLE MR. JUSTICE K. RAJASEKAR

Crl.O.P.No.34399 of 2025

Dillibabu

... Petitioner

-Vs-

State Rep by,
The Inspector of Police,
PEW Periyapalayam Unit,
Periyapalayam,
Thiruvallur District.
(Crime No.29 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.29 of 2025 on the file of
the respondent police.

For Petitioner : Mr.N.Palanivel

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 01.03.2025, for the offence punishable under Sections 8(c), 20(b)(ii)(c), 29(1) of 25 Narcotic Drugs & Psychotropic Substance Act, 1985 in Crime No. 29 of 2025, registered on the file of the respondent, seeks bail.

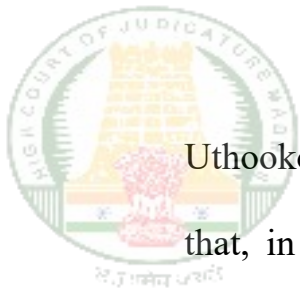


WEB CAM

2. The case of the prosecution is that, A1 to A6 who are known to each other for enriching themselves by trafficking Ganja, these petitioners went to Andhra Pradesh and purchased 21.50 kgs of Ganja and after packing it into two bags, A1 to A2 were carrying 10 kgs in a bag and keeping it in a two wheeler bearing Reg.No.AP 03 CH 4501, remaining 11.50 kgs of Ganja carried by A3 and A4 in another two wheeler, A5 & A6 also accompanied them in another two wheeler; while they entered Uthookottai check post, they were intercepted by the police. After seeing the police, A5 & A6 diverted the vehicle and escaped, however A1 to A4 along with two bikes and contraband were arrested, after completing the mandatory provisions under NDPS Act and thereafter, based on the confession recorded from other accused, A5 & A6 were arrested. Hence, the case.

3. The learned counsel appearing for the petitioner submitted that, he is in custody for nearly one year and he is not having any previous case. He further submitted that, seizure mahazar is recorded in bald manner as if the recovery is made from all the persons without mentioning the specific quantity carried in each vehicle. Further, there is no recovery from these petitioners. Hence seeks for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) reiterated the prosecution case and submitted that, totally 21.50 kgs of Ganja were seized from A1 to A4 at



Uthookottai check post at about 17.00 p.m, on 28.02.2025. He further submitted that, in the final report, it is stated about number of bundles of Ganja were seized from each of the accused. Hence, he opposed the grant of bail to the petitioner.

5. Earlier, this Court dismissed the bail petition filed by the petitioner in CrI.OP.Nos.16060 &19030 of 2025 dated 11.11.2025 on the ground that the petitioner was in conscious possession of the contraband and that the quantity seized was a commercial quantity. Hence, the rigours of Section 37 of the NDPS Act apply to the accused. Therefore, this Court is not inclined to grant bail to the petitioner.

6. Now, the learned counsel for the petitioner further submitted that there is a violation of Section 42(2) of the NDPS Act. In support of his contention, he placed reliance on the judgment of the Hon'ble Bombay High Court in *Shivraj Gorakh Satpute v. State of Maharashtra*, reported in 2023:BHC-AS:27542. According to the learned counsel, non-compliance with Section 42(2) of the NDPS Act renders the seizure illegal.

7. This Court is of the view that Section 42(2) of the NDPS Act is not applicable to the facts of the present case, since the seizure was affected during a routine vehicle check conducted near a check post and it has not been made based on prior information and this view is fortified by the decision of Apex



Cout in **Hamidhbai Azambhai Malik Vs State of Gujarat**, reported in **AIR**

2009 SCC 1378. Further the petitioner has failed to satisfy twin conditions

incorporated under Section 37 of the NDPS Act. Therefore, this Court is not

inclined to grant bail to the petitioner.

8 .Accordingly, the Criminal Original Petition is dismissed.

16.12.2025

drl

To

1. The Inspector of Police,
PEW Periyapalayam Unit,
Periyapalayam,
Thiruvallur District.

2.The Public Prosecutor,
High Court, Madras.



WEB COPY



K. RAJASEKAR, J.

drl

Crl.O.P.No.34399 of 2025

16.12.2025,. vb