



WEB COPY

CRL OP Nos. 34272 & 33041
2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-12-2025

CORAM

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

CRL OP Nos. 34272 & 33041 of 2025 of 2025

1. Senthil @ Kanagalingam
S/o. Periya Nadar, Plot No.4/917b,
7Door No.11/263, Vijayalakshmi
Avenue, Periyakoluthuvancheri,
Iyyappan Thangal, Kolathuvancheri,
Kancheepuram-600 122.

Petitioner in
Crl.O.P.No.34272 of 2025

1. Koilraj
S/o.Thiruselvam, 5.50, KottarVilai,
Angamangalam,Kurumbur,
Thoothukkudi, Thiruchendur, Tamil
Nadu - 628 207

Petitioner in
Crl.O.P.No.33041 of 2025

Vs

1. Home, Prohibition and Excise
Department
E5, Sholavaram Police Station,
Redhills. Crime No. 355 of 2025

Respondent in both
Crl.O.P.s

COMMON PRAYER

To enlarge the Petitioners on bail pending Trial in C.C.NO.1339 of 2025 on the file of the learned II Additional Special Judge for NDPS Act Cases at Chennai and thus render Justice.



WEB COPY

CRL OP Nos. 34272 & 33041
2025



For Petitioner in both R.C.Paul Kanagaraj
Crl.O.P.s

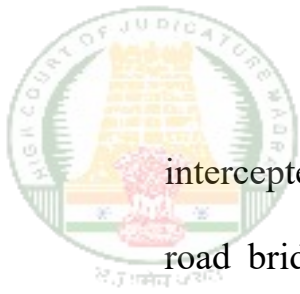
For Respondent in Mr.A.Gopinath
both Crl.O.P.s Government Advocate (Crl.Side)

COMMON ORDER

The petitioner/A-4 in Crl.O.P.No.33041 of 2025, who was arrested and remanded to judicial custody on 02.06.2025, for the alleged offence punishable under Sections 8(c), 20(b)(ii)(C), 25, 29(1) of NDPS Act, 1985 & section 24(1) of the Cigarettes and Other Tobacco Products Act, 2003 (COTPA) in Crime No.355 of 2025, on the file of the respondent police, seeks bail.

The petitioner/A-5 in Crl.O.P.No.34272 of 2025, who was arrested and remanded to judicial custody on 27.06.2025, for the alleged offence punishable under sections 8(c), 20(b)(ii)(C), 25, 29(1) of NDPS Act, 1985 & section 24(1) of the Cigarettes and Other Tobacco Products Act, 2003 (COTPA) in Crime No.355 of 2025, on the file of the respondent police, seeks bail.

2. The allegation against the petitioners is that the petitioner in Crl.O.P.No.33041 of 2025, is ranked as A4 and the petitioner in Crl.O.P.No.34272 of 2025 was ranked as A1 (as per final report) was having godown at Sivanthi Athithanar Nagar and the godown was inspected by the police and the banned tobacco products to the extent of 3 ½ tonnes were seized. Prior to seizure of banned tobacco products, the police on information, have



intercepted the lorry driven by A3 in this case near Ambedkar Nagar, 400 feet road bridge and seized banned tobacco products and also 25 kgs of Ganja.

Based on the statement given by the lorry driver, it revealed that he along with petitioners involved in transportation of banned tobacco products and also Ganja. Hence, A1, A3, A4, A5 and A6 were arrested on the same day and A7 still absconding.

3. The learned counsel appearing for the petitioners submitted that since the petitioners herein were involved in transportation and possession of tobacco products, the respondent have foisted the case of NDPS by adding 25 kgs of Ganja in the products seized from the lorry. He further submitted that this Court earlier while dismissing the bail application for A5 in Crl.O.P.Nos.31165 & 29981 of 2025 dated 18.11.2025 observed that NDPS Act is not applicable to the godown owner. He further submitted that as far as A4/cleaner is concerned he was not having knowledge about the transportation of ganja and he is not even given an opportunity to explain his case and no statements were recorded from him. Similarly except the statement recorded from the co-accused (A3 driver), no other material is available to implicate the accused No.4 in this case. He further submitted that though it is stated that 25 kgs of ganja was seized from the lorry, it is foisted and prays to grant bail to all the petitioners herein.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police



reiterated the prosecution case and submitted that as far as A3 and A4 is concerned (driver and cleaner), they travelled together in the lorry and 25 kgs of ganja was recovered from them. Hence, they shall be considered to be in joint possession and recovered and travelled together in the vehicle. Hence, they shall be considered as that they were in joint possession of the contraband seized in this case and section 37 of the NDPS Act is applicable to them. He further submitted that similarly A6 is concerned who is also having bad antecedents. Hence on that ground only earlier bail application of A6 was also dismissed. Hence, prays to dismiss all the bail applications.

5. I have considered the submissions made on both sides and perused the records. In this case, while dismissing the earlier bail application of the petitioner in Crl.O.P.Nos. 31165 and 29981 of 2025, it has been observed as follows:

“Admittedly, the statement of A1 reveals that he brought the banned tobacco products along with Ganja from Karnataka, and unloaded only banned tobacco products at the godown with the help of the A3 and A4. It is also stated that A1 was in possession of 640 kgs of banned tobacco products and ganja after unloading 3 ½ tonnes of banned tobacco products. If the ganja was transported for these petitioners, there is no necessity for A1



to take back ganja with him after unloading the tobacco products.

I am of the view that there is no prima facie material produced before me to establish the fact that the Karukuvel-A6 and Senthil @ Kanagalingam-A5 involved in any transportation of ganja. Hence, section 37 of the NDPS would not be applicable to them. It appears that investigation was completed and final report has also been filed in the month of June, 2025. Though it is stated that A6 has involved in three previous cases which are pending, it reveals that only one case is concerned with regard to banned tobacco products and other cases are different in nature. It is also seen that A5 is having 11 previous cases with regard to banned tobacco Gutkha case. Hence, I am inclined to grant bail to the petitioner in Crl.O.P.No.31165 of 2025 i.e., for A6 and the petitioner in Crl.O.P.No.29981 of 2025 is dismissed insofar as A5 is concerned.”

6. As observed by this Court in the earlier order, section 37 of the NDPS Act is not applicable as far as godown owner A1 (as per final report) is concerned. The major ground for rejection of bail was that he was having some bad antecedents. Thereafter, after dismissal of the bail applications, some of the co-accused were released on bail by this Court and this petitioner is also under incarceration from



27.06.2025 and he is in incarceration for nearly 6 months. Hence, I am inclined to grant bail as far as petitioner in Crl.O.P.No.34272 of 2025 (godown owner) is concerned with certain conditions.

7. As far as driver and cleaner is concerned, though it is stated no statement were recorded from cleaner, admittedly both were traveled in the lorry and it is also recorded that 25 kgs of ganja were recovered from the cabin of the driver and it is also admitted that the cleaner was also accompanied the driver in the cabin. It is the case of the prosecution that it was transported from Andhra Pradesh to Tamil Nadu. That being the case, In the judgments of the Apex Court in *Narcotics Control Bureau Vs. Mohit Aggarwal [2022 SCC Online SC 891]* and *Union of India through Narcotics Control Bureau, Lucknow Vs. MD.Nawaz Khan [(2021) 10 SCC 100]*, it has been observed by the Apex Court that traveling together in a private vehicle or a vehicle transporting the contraband which is not a public transport vehicle, the persons traveled shall deemed to have a knowledge about the transportation of contraband in the vehicle and it is also termed as a conscious possession; under the said circumstances, it requires strong ground to rebut the presumption of 'conscious possession'.

8. In this case except the allegations of false implication, there is no



material or any other facts have been established before this Court to satisfy section 37 of the NDPS Act. Hence, I am of the view that section 37 of the NDPS is applicable the petitioner in Crl.O.P.No.33041 of 2025 is concerned. Hence, I am not inclined to grant bail to the petitioner in Crl.O.P.No.33041 of 2025.

9. Accordingly, the petitioner in Crl.O.P.No.34272 of 2025 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 II Additional Special Judge for NDPS Act Cases, 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 respondent police daily at 10.30 a.m., for a period of three weeks and thereafter as and when required for interrogation;

[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.

18-12-2025

Mpa
Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No



Note:

1. Registry is directed to forthwith upload this order in the Official Website of this Court.

2. All concerned to act on this order being uploaded in Official Website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in the official website of this Court will be watermarked and will also have a QR code.

To

1.II Additional Special Judge for NDPS Act Cases, Chennai.

1.Home, Prohibition and Excise
Department
E5, Sholavaram Police Station,
Redhills. Crime No. 355 of 2025

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

4.The Public Prosecutor, High Court of
Madras.



WEB COPY

CRL OP Nos. 34272 & 33041
2025



K.RAJASEKAR J.
mpa

**CRL OP Nos. 34272 &
33041 of 2025 of 2025**

18-12-2025