



Crl.O.P.No.34441 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2025

CORAM

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

Crl.O.P.No.34441 of 2025

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... Petitioner

Vs.

The State represented by
The Inspector of Police,
M-1 Madhavaram Police Station,
Chennai.
(Crime No.564 of 2025)

... Respondent

PRAYER : Criminal Original Petition filed under Section 483 of Bharatiya
Nagarik Suraksha Sanhita, 2023, to enlarge the Petitioner/Accused on bail in
Crime No.564 of 2025 pending on the file of the respondent Police.

For Petitioner : M/s.N.Kalaivani

for Mr.P.Wilson Associates

For Respondent : Mr.A.Gopinath

Government Advocate (Crl.Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on
22.08.2025, for the offence punishable under Sections 8(c), 22(b), 22(c), 25,
29(1) of NDPS Act, 1985 in Crime No.564 of 2025, registered on the file of
the respondent, seeks bail.

2. The case of the prosecution is that on 22.08.2025 at about 09:30
hours, based on a secret information regarding illegal transportation and



Crl.O.P.No.34441 of 2025

selling of ganja, the police party went near Arul Nagar Ground, Madhavaram and based on the identification given by the informant, the petitioner and other accused persons were surrounded by the police party; that after identifying them and compliance of Section 50 of the NDPS Act, the petitioner and other accused were searched; that upon search, it is found that Abhishek, who arrayed as A2 in this case was found in illegal possession of 7 nos. of LSD Stamp - 0.12 Mg and Lingeshwaran, who arrayed as A3 in this case was in possession of 2.70 grams of Methamphetamine; that petitioner/A1 was found in possession of 11.60 grams of MDMA Estacy Pills tablet - 23 nos. and A4 and A5 each were found in possession of 2.30 grams of Methamphetamine; that upon further investigation, two other accused/ A6 & A7 were also arrayed as accused in this case.

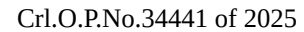
3. The learned counsel appearing for the petitioner submitted that the petitioner went to Arul Nagar Ground, Madhavaram at about 09:00 a.m. on 22.08.2025, he has been falsely implicated in this case and he is in judicial custody since 22.08.2025. He further submitted that the petitioner was alleged to be in possession of intermediate quantity of contraband and further contended that since the seizure was taken place in a public place, the samples were not taken in the presence of learned Magistrate and no public



Crl.O.P.No.34441 of 2025

witnesses were utilized in this case, hence Section 50 of the NDPS Act has not been complied with. He also relied on the judgment of the Hon'ble Apex Court in *Mohd. Muslim vs. State (NCT of Delhi) [AIR 2023 SC 1648]* and *Yusuf vs. State [AIR 2023 SC 5041]* and the judgment of the High Court of Allahabad in *Jamil Akhtar Miyan vs. Union of India [MANU/UP/0140/2024]* to support his contention; and that the petitioner is ready to abide by any conditions that may be imposed by this Court and sought for bail to the petitioner.

4. The learned Government Advocate (Criminal Side) appearing for the respondent while opposing the bail to the petitioner, reiterated the prosecution case and stated that there are totally seven accused involved in this case and the petitioner herein is arrayed as A1; that the total quantity of contraband involved in this case is 7.30 grams of Methamphetamine, MDMA Estacy Pills Tablet - 23 nos., weighing 11.60 grams and, which falls under commercial quantity, hence rigors of Section 37 of the NDPS Act is applicable to the present case. He further submitted that upon investigation, it is revealed that the petitioner and other accused persons were all working together as a group for illegal trafficking of contraband from various places and also selling the same to general public for monetary gain;





Crl.O.P.No.34441 of 2025

India cited supra has considered the bail application of the petitioner therein, who was in incarceration for nearly 2 years and held that the sampling was not done in accordance with Section 52A of the NDPS Act, further the Court has considered the validity of the sampling based on the judgement of the Hon'ble Apex Court in *Union of India Vs. Mohal Lal [(2016) 3 SCC 379]* and *Yusuf vs State* cited supra.

8. In this case, the petitioner has been arrested on 22.08.2025 and the investigation is in preliminary stage and considering the veracity and validity of sampling at this point of time cause prejudice to both sides, hence this Court is of the view that considering the validity of taking sample at this point of time is not proper and the same would be appropriate only after filing of final report.

9. The next contention of the learned counsel for the petitioner is that, the contraband alleged to have been seized from the petitioner herein is of intermediate quantity, hence rigors of Section 37 of the NDPS Act is not applicable to the present case. However, on careful perusal of the prosecution case as on today, it reveals that the petitioner along with other accused acted jointly, came together to the spot with a common object of



Crl.O.P.No.34441 of 2025

illegal trafficking and selling of various types of contraband to the general public and also the fact that they were also aware of the possession of contraband with each other, hence segregation of possession of each person for the purpose of determining applicability of commercial quantity at this stage is not possible. Considering the total quantity of various types of contraband involved in this case, I am of the view that rigors of Section 37 of the NDPS Act is applicable to the present case.

10. Accordingly, these criminal original petitions stand dismissed.

18.12.2025

mpa

To
1.The Inspector of Police,
M-1 Madhavaram Police Station,
Chennai.
2.The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.34441 of 2025

K.RAJASEKAR, J.

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Crl.O.P.No.34441 of 2025

18.12.2025