



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2025

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PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP(MD).No.829 of 2025

Shameel Ahmed

... Petitioner / Accused No.6

Vs.

The State of Tamil Nadu rep by
The Inspector of Police,
Vikkaramangalam Police Station,
Madurai District.
(Crime No.136 of 2023)

... Respondent / Complainant

PRAYER :- The Criminal Original Petition filed under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita (BNSS), 2023 praying to grant bail to the petitioner in
Crime No.136 of 2023 on the file of the respondent-police.

For Petitioner : Mr.R.Jagadeeshwaran,
Advocate.
For Respondent : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 09.01.2025
under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS) praying to grant
bail.

2. The petitioner / accused no.6 was arrested and remanded to judicial

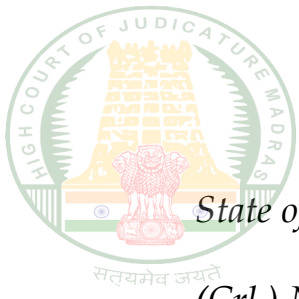


custody on 09.09.2023 for the alleged offences punishable under Sections 8(c) read with 20(b)(ii)(C) and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985, and Section 201 of the Indian Penal Code, 1860, in Crime No.136 of 2023 on the file of the respondent-police.

3. The case of the prosecution is that on 09.09.2023 at about 19.45 hours, the respondent-police arrested the petitioner for transporting the contraband from Andra Pradesh in a van bearing Reg.No.TN-83-D-7135 and recovered 60 kgs and 200 grams. Hence, this case.

4. It has come to light that this is the fourth bail application filed by the Petitioner before this Hon'ble Court. Initially, the Petitioner filed Crl.O.P. (MD) No. 21323 of 2023, which was dismissed on 03.01.2023. Subsequently, the Petitioner filed a second bail application in Crl.O.P. (MD) No. 1975 of 2024, which was also dismissed on 09.02.2024. Thereafter, the Petitioner filed a third bail application in Crl.O.P. (MD) No. 11628 of 2024, which was again dismissed on 14.08.2024. The relevant portions are extracted hereunder:-

“3. The learned counsel for the petitioner would submit that the petitioner is languishing in prison from 09.09.2023 and majority of the accused are absconding. There is no imminent possibility of the trial being conducted. In such an event, when there is no material against the petitioner except the confession of the co-cussed, he would rely upon the judgment of the Hon'ble Supreme Court of India in Rabi Prakash Vs the



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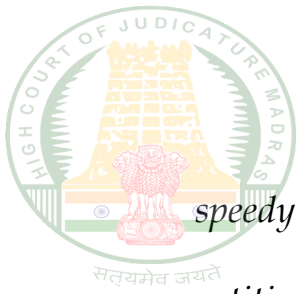
State of Odisha reported in 2023 LiveLaw(SC) 533 (Special Leave to Appeal (Crl.) No.4169/2023) to contend that the right guaranteed under Article 21 of the Constitution of India for a speedy trial would override the requirements of Section 37 of NDPS Act and if the incarceration goes beyond the limit, the court should release the petitioner on bail pending the trial.

4.Per contra, the learned Additional Public Prosecutor would submit that, apart from the confession of the co-accused, the images of the large vehicle crossing the check post were also taken. He would further submit that the petitioner has also spoken to A8 and A9 and CDR particulars have been obtained in the investigation.

5.He would further submit that in the vehicle, it was made-up as if they are transporting fish in the ice tank and there was no fish or ice in the inside of the tank but only 215 kilograms of ganja. The other accused are all in Andhra Pradesh, Sri Lanka etc., and therefore, Non Bailable Warrant is pending.

6. I have considered the rival submissions made on either side and the materials available on records.

7.There can be no two opinions as to the proposition argued by the learned counsel for the petitioner that if the incarceration stretches way too long, then even if there is prima facie material, by considering the right to



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speedy trial guaranteed under Article 21 of the Constitution of India, the petitioner has to be enlarged on bail. In this case, ten months are over as of now. Therefore, it cannot be stretched too far to the level of invoking Article 21 of the Constitution of India. It is stated by the prosecution that the case has already been charged and taken on file as CC.No.111 of 2024. If there is no near possibility of securing the other accused, the prosecution shall file a memo with the trial court. The trial Court shall consider the same, split up the case, and conduct the trial as against the accused attending the court as expeditiously as possible, in any event not later than four months from the date of receipt of a copy of this order.

8.With the above observations for the present, this court is not inclined to allow this petition.

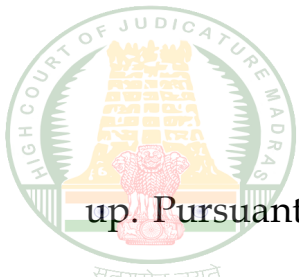
9.Accordingly, this Criminal Original Petition is dismissed."

5. Mr.R.Jagadeeshwaran, the learned counsel for the petitioner, submits that the petitioner has been arrayed as Accused No.6. He further submits that investigation has been completed and charge sheet was filed. He further submits that the Petitioner is entitled to be released on bail as he has been in jail for the past 481 days. The Petitioner is a badge driver who initially resided in Bangalore and worked as a driver for Ola, Uber, and Rapido services. Most recently, the petitioner was employed as a driver in Shanthi Nagar, Brila Street, under Syed Mushba for a period of four months. Accused No. 7, who is the owner of the alleged truck and



had hired the petitioner as a temporary driver on daily wages. The petitioner had no knowledge of the alleged transportation of ganja loaded in the truck or of travelling with Accused No. 1. He further submits that the Petitioner has no connection with the other accused persons concerning the transportation of *ganja*. On the date of the occurrence, Accused No. 1 contacted Accused Nos. 8 and 9 using the petitioner's mobile phone. However, prior to this date, there was no communication between them. He further submits that the petitioner has no prior criminal record and is not a habitual offender. He was not acquainted with Accused No. 1 before the date of the alleged occurrence. He further submits that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Accordingly, he prays to allow this Criminal Original Petition.

6. *Per contra*, Mr.R.Meenakshi Sundaram, the learned Additional Public Prosecutor appearing for the respondent-police, submits that there are totally nine accused persons in this case and the petitioner has been arrayed as A6. He further submits that investigation was completed and charge sheet was filed and the same has been taken on file in C.C.No.111 of 2024 by the Principal Special Court for EC and NDPS Act Cases, Madurai, on 06.04.2024 against nine accused persons. Among them, Accused Nos. 2 to 5 have been absconding, and Non-Bailable Warrants are pending against them. Accused Nos. 1, 6, and 7 have been in judicial custody. He further submits that as per the order of this Court in Crl.O.P. No. 11628 of 2024 dated 14.08.2024, the case against Accused Nos. 2 to 5 has been ordered to be split



up. Pursuant to this order, the prosecution has filed a split-up petition, which has been allowed. Consequently, the case against Accused Nos. 2 to 5 has been split up and assigned C.C. No. 72 of 2025. He further submits apart from the confession statement of the co-accused, the images of the large vehicle crossing the check post were also taken. He further submits that the petitioner has also spoken to A8 and A9 and CDR particulars have been obtained by the investigation agency. Based on the evidences available on record, the respondent-police filed a complaint against the accused persons. He further submits that rigors stated in Section 37 of the NDPS Act would be applicable to the present case. He further submits that the petitioner was made-up the vehicle as if they are transporting fish in the ice tank and there was no fish or ice in the inside of the tank but only 215 kgs of ganja. Hence, he vehemently opposes to enlarge the petitioner on bail. Accordingly, he prays to dismiss the Criminal Original Petition.

7. Heard on both sides. This Court has perused the records.

8. On perusal of records, it is revealed that the contraband seized by the respondent-police is a commercial quantity. It is stated that the CDR details and all other materials collected by the investigation agency would *prima facie* show the involvement of the petitioner in the crime. There are sufficient materials available on record to show that the petitioner also involved in the offence. Hence, this Court is of the considered view that the petitioner has not satisfied the twin condition stated in Section 37 of the NDPS Act. To be noted, the above view is recorded only for the



limited purpose of deciding the bail petition. The above view, in any way, would not cause prejudice to the rights of the petitioner to defend the case during the Trial.

Considering the above reasons and also considering the facts and circumstances of the case, the overt act alleged against the petitioner, this Court is not inclined to grant bail to the petitioner.

9. Considering the custody of the petitioner, this Court requests the Trial Court to conclude the Trial in a speedy manner as early as possible. The prosecution agency is also directed to co-operate with the Trial Court for expeditious disposal of the case.

10. Accordingly, this Criminal Original Petition is dismissed.

Sd/-

01.04.2025

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Sub Assistant Registrar
(CS - I/II/III/IV)

Madurai Bench of Madras High Court,
Madurai.

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To

1. THE JUDGE,
PRINCIPAL SPECIAL COURT FOR EC AND NDPS ACT CASES,
MADURAI.

2. THE INSPECTOR OF POLICE,
VIKKARAMANGALAM POLICE STATION,
MADURAI DISTRICT.



3. THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.

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4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN

CRL OP(MD) No.829 of 2025
Date :01/04/2025

RS (21/04/2025) 8P/ 5C

Madurai Bench of Madras High Court is issuing
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