



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 18/03/2025

PRESENT

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

CRL OP (MD) No.1755 of 2025

Petchimuthu,
S/o.Mariappan,
North Colony Street,
Maranthai, Alangulam,
Tirunelveli District.

... Petitioner/ A3

Vs

The State of Tamil Nadu,
Rep. by the Inspector of Police,
Pettai Police Station,
Tirunelveli District.
Crime No.7/2024

... Respondent/ Complainant

For Petitioner : Mr.M.Jegadeesh Pandian,
Advocate.

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

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :-

To release the petitioner/ Accused No.3 on bail in C.C.No.209 of 2024 on the file of
the learned II Additional Special Judge for NDPS Act Cases, Madurai.



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ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 27.01.2025 under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to grant bail.

2. The petitioner/Accused No.3 was arrested and remanded to judicial custody on 07.01.2024. The petitioner is facing trial in C.C.No.209 of 2024 on the file of the learned II Additional Special Judge for NDPS Act Cases, Madurai for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C), 29(1) and 25 of NDPS Act in connection with Crime No.7 of 2024, on the file of the respondent-Police.

3. The case of the prosecution is that on 06.01.2024, at about 23:00 hours, based on the secret information, when the respondent-police were on patrol duty near Kandiaperi Illanthakulam, they found the accused persons in a Scorpio car bearing Registration No. TN-18-Z-3505 and two two-wheelers bearing Registration Nos. TN-72-CB-3856 and TN-72-BU-5166. On enquiry, the police found that the accused persons were in possession of 14.200 kgs of ganja and 10.800 kgs of ganja in two bags.

They confessed that A1 had sent A2 to Andhra Pradesh to purchase large quantities



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of ganja and had instructed him to sell the same to A4 to A7. A3 came to the spot in the Scorpio car, and A4 to A7 arrived on the two two-wheelers for the purpose of purchasing ganja. There are totally 8 accused persons in this case, and the petitioner has been arrayed as A3. Hence, the case.

4. Mr.M.Jegadeesh Pandian, learned counsel appearing for the petitioner, submits that there are totally eight accused persons in this case, and that except the petitioner herein, all other accused persons were released on bail by this Court. He further submits that the petitioner has not committed any offence as alleged by the prosecution. He however submits that if bail is granted to the petitioner, he will not abscond in future and that he is ready to abide by any conditions that may be imposed by this Court. Therefore, he prays for granting bail to the petitioner.

5. Per contra, Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor appearing for the respondent-police, submits that the investigation has been completed and charge sheet has been filed before the learned II Additional Special Judge for NDPS Act Cases, Madurai and the same was taken on file in C.C.No.209 of 2024. He further submits that if bail is granted to the petitioner, he may abscond and thereby cause a delay to the trial proceedings. He further submits that the mandatory



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provisions of Sections 42, 50, 52A and 57 of NDPS Act were followed since Accused No.1 has actively involved in the case by procuring the ganja for sale. He further submits that Accused No.1 went to Andhra Pradesh and transported the ganja to Theni where the petitioner herein received the ganja as per the message passed by Accused No.1. He further submits that the ganja seized in this case weighing 25 kgs is a large quantity. Hence, he strongly opposes to grant bail to the petitioner.

6. Heard on both sides. This Court has perused the case file and the order passed by this Court dated 11.12.2024 in CrI.O.P.(MD).Nos.20151 and 20162 of 2024. This Court observed in Paragraph Nos.7 to 10 as follows:-

“7. The investigation has been completed and the police report has been filed in this case. It is therefore relevant to take note of Section 161 statement recorded from LW13. He is a Head Constable who states that he was assisting the Inspector of Police in preparing requisition letter and producing contraband before the Court on 03.05.2024. He further states that the samples were taken in the presence of the learned Magistrate from each bag in compliance with Section 52A of NDPS Act. Thereafter, the letter from the Court was received on 13.05.2024 and the samples reached the FSL on 14.05.2024. The date on which the samples reached the FSL is quite evident from the Forensic examination report. The samples were examined on 16.05.2024 and the report was given on the same day.



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8. Thus, it can be seen that even though, the contraband was seized on 07.01.2024, it came before the Court for drawing of samples on 03.05.2024 and whereas, the requisition was made to the FSL on 13.05.2024 and according to LW13, it reached the FSL on 16.05.2024. However, the FSL report shows that it was received on 14.05.2024.

9. In view of the above, there is a prima facie case for the petitioners to putforth their contentions with respect to the delay in the contraband reaching the FSL and the contradiction in the dates on when it was received by the FSL. This directly touches upon the compliance of Section 52 A of NDPS Act.

10. In the light of the above prima facie finding, this Court is convinced that the twin conditions under Section 37 of NDPS Act is satisfied. This Court also takes into consideration the fact that the petitioners do not have any previous cases and they were arrested and remanded to judicial custody on 07.01.2024 and the probability of the case being disposed of in the near future is also unlikely. In view of the same, this Court is inclined to enlarge the petitioners on bail subject to the following conditions."

7. The said observation is applicable to the petitioner also.



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8. The petitioner has permanent residence and hence, there is less possibility of absconding. Considering the same, and also considering the period of incarceration and the fact that the alleged contraband and the vehicles have been seized by the respondent-Police, and with a view to give one more opportunity to the petitioner to reform himself, this Court is inclined to grant bail to the petitioner, however, subject to certain conditions. Accordingly, bail is granted to the petitioner subject to the following conditions:

(i) The petitioner shall execute a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) along with two sureties each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the learned II Additional Special Judge for trial of NDPS Act Cases, Madurai;

(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned II Additional Special Judge for trial of NDPS Act Cases, Madurai, shall obtain a copy of any one of identity proofs to ensure their identity;

(iii) The petitioner shall attend in accordance with the conditions of the bond to be executed under Chapter XXXV of BNS, 2023;



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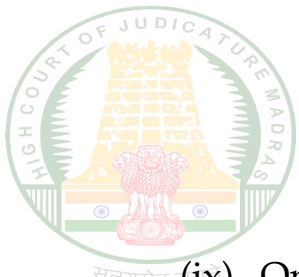
(iv) The petitioner shall not commit an offence similar to the offence of he is accused, or suspected, of the commission of which he is suspected;

(v) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence;

(vi) The petitioner shall furnish his residential address and mobile number to the learned II Additional Special Judge for trial of NDPS Act Cases, Madurai;

(vii) The petitioner shall not, directly or indirectly, cause any threat to the defacto complainant and witnesses;

(viii) The petitioner shall appear and sign before the learned II Additional Special Judge for trial of NDPS Act Cases, Madurai during every date of hearing without fail; and



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(ix) On breach of any of the aforementioned conditions, the learned II Additional Special Judge for trial of NDPS Act Cases, Madurai is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by him as laid down by the Hon'ble Supreme Court in P.K. Shaji vs. State of Kerala [(2005) 13 SCC 283].

9. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated supra.

Sd/-
18/03/2025

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19/03/2025
Sub-Assistant Registrar
(C.S.I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

tsg/jen

TO

- 1 THE II ADDITIONAL SPECIAL JUDGE
FOR TRIAL OF NDPS ACT CASES, MADURAI.
- 2 THE SUPERINTENDENT,
CETRAL PRISON, PALAYAMKOTTAI.



3 THE INSPECTOR OF POLICE,
PETTAI POLICE STATION,
TIRUNELVELI DISTRICT.

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

+1 CC to M/s.M.JEGADEESH PANDIAN, Advocate (SR-3020[I] dated 18/03/2025)

ORDER
IN
CRL OP(MD) No.1755 of 2025
Date :18/03/2025

ES/19.03.2025/9P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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