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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2025

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP(MD) No. 2533 of 2025

N.Nagaraj

... Petitioner / Accused No.4

Vs.

The State of Tamil Nadu rep by
The Inspector of Police,
Peraiyur Police Station,
Madurai District.
(Crime No.204 of 2024)

... 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.204 of 2024 on the file of the respondent-police.

For Petitioner : Mr.R.Anand,
Advocate

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

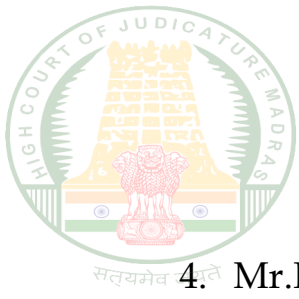


ORDER: The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 06.02.2025 under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to grant bail.

2. The petitioner/A4 was arrested and remanded to judicial custody on 30.09.2024 for the alleged offences punishable under Sections 8(c) r/w. 20(b)(ii)(C), 29(1) of NDPS Act, in Crime No.204 of 2024 on the file of the respondent-police.

3. The case of the prosecution is that on 30.09.2024, at about 6:00 p.m., based on secret information, the Special Sub-Inspector of Police, along with his team, conducted a search and found a person carrying a gunny bag, who attempted to run away. The police team apprehended him and, upon inquiry, it was revealed that the accused was in illegal possession of 74 kg of ganja. Based on his confession, other accused persons were implicated as co-accused. The contraband was seized by the respondent police. Hence, the present case.



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4. Mr.R.Anand, the learned counsel for the petitioner, submits that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He further submits that the petitioner has been in judicial custody since 30.09.2024. He further submits that the petitioner (A4) has been arrayed as accused only based on the confession statement allegedly given by A1. He further submits that the petitioner's wife and A1 are relatives. He further submits that the materials collected by investigation officer do not make out a case against the petitioner. He, however, submits that the petitioner is ready to abide by any stringent conditions that may be imposed by this Court. Accordingly, he prays to grant bail to the petitioner.

5. Per contra, Mr.R.Meenakshi Sundaram, the learned Additional Public Prosecutor appearing for the respondent-police, submits that the sale proceeds of the contraband by A1 were sent to the petitioner's wife. He further submits that the investigation agency has collected sufficient materials to connect the petitioner (A4) to the crime. He further submits that investigation has not been completed. However, he vehemently opposes to grant bail to the petitioner, by stating that if bail is granted, the petitioner may cause delay to the trial proceedings. He further submits that the petitioner has not satisfied the twin conditions stipulated in Section 37 of the NDPS Act. Accordingly, he prays to dismiss the petition.

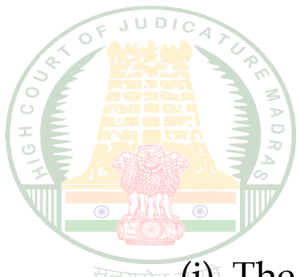


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6. Heard on both sides. This Court has perused the records.

7. The petitioner was arrested and has been in incarceration since 30.09.2024. The petitioner has been arrayed as an accused only based on the confession of A1 and no contraband was recovered from the petitioner. It is stated that the petitioner's wife and A1 are relatives. However, at this stage of the investigation, it cannot be presumed that the sale proceeds were sent to the petitioner's wife.

8. Considering the facts and circumstances of the case, this Court is of the view that the petitioner has established a prima facie case that rigours of Section 37 of the NDPS Act would not be applicable to the petitioner. 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 prejudice the rights of the prosecution to establish its case during the trial. The petitioner has permanent residence. Therefore, there is less possibility of absconding. Considering the above observation and with a view to give an opportunity to the petitioner to reform himself, this Court is inclined to grant an order of bail to the petitioner, however, subject to the following conditions:



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(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 Judge, Principal Special Court for Trial of NDPS 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 Judge, Principal Special Court for Trial of NDPS Cases, Madurai shall obtain a copy of any one of identity proofs to ensure their identity.

(iii) The petitioner shall appear and sign before the learned Judge, Principal Special Court for Trial of NDPS Cases, Madurai, on all working days at 10.30 a.m. until further orders.

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

(v) 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.



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(vi) 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.

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

(viii) The petitioner shall furnish his residential address and mobile number to the learned Judge, Principal Special Court for Trial of NDPS Cases, Madurai.

(ix) On breach of any of the aforementioned conditions, the learned Judge, Principal Special Court for Trial of NDPS Cases, Madurai or Trial Court 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.

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Sd/-
26/02/2025

26/02/2025
Sub-Assistant Registrar (CS-II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

- 1 THE PRINCIPAL SPECIAL JUDGE
FOR TRIAL OF NDPS CASES, MADURAI.
- 2 THE INSPECTOR OF POLICE,
PERAIYUR POLICE STATION,
MADURAI DISTRICT.
- 3 THE OFFICER INCHARGE,
DISTRICT JAIL, KANAVAVILAKKU,
THENI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL OP(MD) No.2533 of 2025
Date :26/02/2025

ES/SAR /26.02.2025/7P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.