



CRL.OP (MD) No.3912 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 26.03.2025

Pronounced on : 17.04.2025

COROM

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP (MD) No.3912 of 2025

Prabakaran @ Prabakar*

... Petitioner / Accused No.2

-VS-

State represented by
The Inspector of Police,
NIB CID, Trichy,
Trichy District
(Cr.No.8 of 2024)

... Respondent / Complainant

*NOTE: Amended as per Order of this Court dated 09.04.2025 in U.S.R.No.4427 of 2025

PRAYER :- Criminal Original Petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 praying to grant bail to the petitioner / Accused No.2 in Crime No.8 of 2024 on the file of the respondent-police.

For Petitioner : Mr.N.Ananda Kumar,
Advocate



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

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanita (BNSS), 2023 seeking bail for the petitioner / Accused No.2.

2. The petitioner/ Accused No.2 was arrested and remanded to judicial custody on 22.05.2024 in Crime No.8 of 2024 on the file of the respondent-police for the alleged offences punishable under Sections 8(c) read with 20(b)(ii)(C), 29(1) and 25 of the 'Narcotic Drugs and Psychotropic Substances Act, 1985' ['NDPS Act' for short].

3. The case of the prosecution is that on 22.05.2024 at around 19:00 hrs, based on confidential information, a drug intelligence operation was conducted by the NIB-CID, Trichy. When the Inspector, along with his team, intercepted a lorry bearing Registration No.TN-67-BM-3210 and a Honda Activa bearing Registration No.TN-48-BF-8992 near the Punganur Division Road, Dindigul-Trichy National Highway, the petitioner / Accused No.2 who was riding the said Honda Activa, as well as the other two accused who were travelling in the said lorry, attempted to flee. However, the Inspector along with his team caught them.

3.1. Upon inspecting the said lorry, the respondent-police found 22 kgs of ganja



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concealed inside the lorry cabin in a white bag. Then, the ganja weighing 22 kgs found in a white bag, the lorry and the bike were seized and marked as P.1 to P.3 respectively. Mobile phones of the three accused persons were seized and marked as P.4 to P.6. The petitioner / Accused No.2 is alleged to have been involved in the transportation and route surveillance of the contraband. Based on this, he was arrested at the scene and has been in custody since 22.05.2024.

4. Mr.N.Ananda Kumar, learned counsel for the petitioner / Accused No.2 submits that the petitioner is an innocent falsely implicated in this case and that no contraband was recovered from the petitioner personally, and the prosecution has not established a direct nexus between the petitioner and the alleged offence, other than through circumstantial association. Further, he submits that the petitioner is neither the owner of the Honda Activa bearing Registration No.TN-48-BF-8992 nor possessed the same at the material point of time. The alleged CDR is not sufficient to connect the petitioner to the offence. The petitioner has been falsely roped in this case based on surmise and conjectures. Further, the petitioner was not arrested at the scene as alleged, instead he was arrested from his house.

4.1. Learned Counsel further submits that, the petitioner has been diagnosed with Renal Microlitia and during his incarceration, he was admitted in hospital on 23.11.2024 and discharged on 30.11.2024. The petitioner requires some further



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treatment for the same. There is no possibility for conclusion of trial in the near future. The petitioner has been under incarceration since 22.05.2024 i.e., for nearly 11 months. The petitioner does not have any bank account and never made any transaction with any of the other accused. The petitioner is ready to abide any conditions to be imposed by this Court. Accordingly, he prays to allow the Criminal Original Petition and enlarge the petitioner on bail.

5. Per Contra, Mr.R.Meenakshi Sundaram, learned Special Public Prosecutor appearing for the respondent-police, opposes to grant bail to the petitioner stating that Accused No.1 purchased ganja from Andhra Pradesh and transported the same through the Accused No.3's lorry bearing Registration No.TN-67-BM-3210 for being delivered to the petitioner / Accused No.2. When the police intercepted the lorry, the petitioner / Accused No.2 was found escorting the Accused No.3's lorry carrying ganja. Further, the petitioner has three previous cases, one among which is similar in nature. This is the second bail petition filed by the petitioner; the previous one was in Crl.O.P.(MD).No.20718 of 2024 and it was dismissed as withdrawn on 03.01.2025. Further, the CDR details of the accused persons as well as the other evidence available on record proves the petitioner's involvement in the offence. Further, the quantity of ganja seized in this case is of commercial quantity. The petitioner has not wriggled out of the rigors of Section 37 of NDPS Act and satisfied the twin conditions



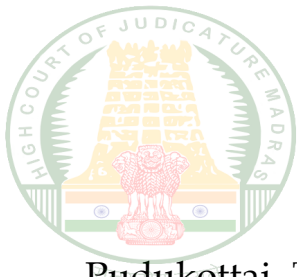
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for grant of bail. Further, there has been a fiscal transaction of Rs.45,000/- between the petitioner and Accused No.1. If bail is granted to the petitioner, he may hamper the ongoing investigation. Accordingly, he prays to dismiss the Criminal Original Petition.

6. Heard on both sides. Perused the records.

7. On perusal of records, it is seen that there are sufficient materials available on record to show that ganja weighing 22kgs was seized from Accused Nos.1 and 3. According to the prosecution, the petitioner escorted the lorry in which ganja was found, in his Honda Activa two-wheeler bearing Registration No.TN-48-BF-8992 on 22.05.2024 at about 19:00 hrs. Further, according to the prosecution, the said Honda Activa two-wheeler was owned by one Thara, who during her examination by the Investigating Officer, has stated that the petitioner borrowed the said two-wheeler from her on 23.05.2024 i.e., the day next to the alleged date of arrest of petitioner. Her statement, coupled with the fact that there is no independent witness for the seizure mahazar, creates serious doubts about the presence of the petitioner at the scene on 22.05.2024 at about 19:00 hrs. Further, the Call Detail Records (CDR) alone are not sufficient to connect the petitioner with the offence. Further, in this case, investigation has been completed and charge sheet has been filed and the same was taken on file as C.C.No.198 of 2024 by Additional District Judge for EC and NDPS Act Cases,



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Pudukottai. The E-Court website shows that all the three accused persons are inside the prison and that the case is posted on 29.04.2025 for engaging advocate by Accused Nos.2 and 3. Considering the pendency of cases before the Special Court, this Court is of the view that there is no possibility for concluding the trial in the near future. Further, the petitioner is suffering from Renal Microlitia and he has annexed Discharge Summary dated 30.11.2024 in support of the same. He contends that continuous treatment is necessary for the ailment. Further, one among the three previous cases, which is similar in nature, is registered under Section 20(b)(ii)(B) [below the threshold of commercial quantity], 25, 8(c) of NDPS Act. As regards the other two previous cases, one was registered in the year 2020 under the Tamil Nadu Prohibition Act, 1937 and the same was disposed of and the other was registered under Section 29(b), 448 and 506 (ii) of Indian Penal Code, 1860 and is pending. This Court is of the view that these will not stand in the way while considering this bail petition.

8. In view of the serious contradictions in the prosecution's case, this Court is of the view that the petitioner has satisfactorily wriggled out of the rigors stated in Section 37 of NDPS Act. It is clarified that the above observations are made only for the limited purpose of this bail application and will not cause any prejudice to the prosecution to establish its case during trial. Considering the cumulative facts and



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circumstances of this case, especially the medical grounds as well as the period of incarceration, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(i) The petitioner shall execute a bond for Rs.10,000/- (Rupees Ten Thousand only) along with two sureties each for a like sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the learned Additional District and Sessions Judge / Presiding Officer, Special Court under Essential Commodities and NDPS Act Cases, Pudukottai.

(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 Additional District and Sessions Judge / Presiding Officer, Special Court under Essential Commodities and NDPS Act Cases, Pudukottai shall obtain a copy of any one of identity proofs to ensure their identity.

(iii) The petitioner shall appear and sign before the learned Additional District and Sessions Judge / Presiding Officer, Special Court under Essential Commodities and NDPS Act Cases, Pudukottai, on all working days, at 10.00 a.m. until further orders.

(iv) The petitioner shall furnish his residential address and mobile number to the learned Additional District and Sessions Judge / Presiding Officer, Special Court



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under Essential Commodities and NDPS Act Cases, Pudukottai, and shall keep his
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mobile phone switched on and reachable.

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

(vi) The petitioner shall not commit any offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

(vii) 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.

(viii) The petitioner shall not leave the Trichy District without prior permission from the learned Additional District and Sessions Judge / Presiding Officer, Special Court under Essential Commodities and NDPS Act Cases, Pudukottai.

(ix) On breach of any of the aforementioned conditions, the learned Additional District and Sessions Judge / Presiding Officer, Special Court under Essential Commodities and NDPS Act Cases, Pudukottai or the Trial Court is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by him / her as laid down by the Hon'ble Supreme Court in P.K. Shaji vs. State of Kerala [(2005) 13 SCC 283].



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

sd/-
17/04/2025

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/04/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE / PRESIDING OFFICER,
SPECIAL COURT UNDER ESSENTIAL COMMODITIES AND NDPS ACT CASES,
PUDUKKOTTAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

3 THE INSPECTOR OF POLICE,
NIB CID, TRICHY,
TRICHY DISTRICT

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

ORDER
IN
CRL OP(MD) No.3912 of 2025
Date :17/04/2025

SA/SAR. /17.04.2025/9P/5C

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