



CRL.OP (MD) No.2515 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 08.04.2025

Pronounced on : 29.04.2025

COROM

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP (MD) No.2515 of 2025

Sasikumar

... Petitioner / Accused No.5

Vs.

Union of India through
Rep. by The Intelligence Officer,
Narcotics Control Bureau,
Madurai Sub Zonal,
Madurai District.
(F.No.48/1/12/2023/NCB/MDS)

... 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 the
case in C.C.No.65 of 2024 pending on the file of the Special Court for EC and NDPS
Act Cases, Pudukkottai, Pudukkottai District in connection with
F.No.48/1/12/2023/NCB/MDS on the file of the respondent-NCB.

For Petitioner : Mr.R.Balamuruganantham,
Advocate

For Respondent : Mr.Arul Vadivel @ Sekar,
Special Public Prosecutor



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ORDER : The Court made the following order :-

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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 to the petitioner.

2. The petitioner/Accused No.5 was arrested and remanded to judicial custody on 17.08.2023 for the alleged offences punishable under Sections 8(c), 20(b) (ii)(C), 27A, 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, in F.No.48/1/12/2023/NCB/MDS on the file of the respondent-NCB. After investigation, the charge sheet has been filed and the same was taken on file by the Special Court for EC and NDPS Act Cases, Pudukkottai, Pudukkottai District in C.C.No.65 of 2024.

3. The case of the prosecution is that, on 16.08.2023, based on secret information, the respondent-NCB seized 423 kilograms of Ganja from a Mahindra Bolero Pickup Vehicle on the R.S.Mangalam-Paramakudi Road, near Pitchankottai Village, Ramanathapuram District. As per the investigation and the confession statement, one Pavithra had purchased the contraband from Andhra Pradesh and transported it in an Ashok Leyland Vehicle. The contraband was then delivered to



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Accused Nos. 1 to 3 at Viralimalai, under the direction and escort of Accused No.4 and the petitioner (A5). Accused No.4 and the petitioner (A5) transferred the said quantity from the Ashok Leyland Vehicle to the Mahindra Bolero Pickup. Thereafter, Accused Nos.1 to 3 proceeded to transport the contraband to Sri Lanka. While en route, they were apprehended by the respondent-NCB near Pitchankottai Village. Hence, the case.

4. Mr.R.Balamuruganatham, learned counsel for the petitioner, submitted that the petitioner is an innocent person and has not committed any offence as alleged by the prosecution. He further submitted that the petitioner/A5 has been in judicial custody since 17.08.2023. He submitted that the petitioner is a You-Tuber and not a person engaged in any anti-social activities, and that he has been arrayed as Accused No. 5 in this case, though no contraband was recovered from him. He also submitted that, based solely on the confession statement of a co-accused and on the ground that he is a friend of A4, the petitioner has been added as an accused in this case. He further submitted that, except for the confession statement, there is no other material available to establish the petitioner's involvement in the alleged illegal transportation of ganja, and that the petitioner has no previous case. He submitted that the investigation has been completed and the charge sheet has been filed in



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C.C.No.65 of 2024 before the learned Judge, Special Court for EC and NDPS Act

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Cases, Pudukkottai, Pudukkottai District. He further submitted that the case is posted for framing of charges, and therefore, there is no possibility of the trial being completed in the near future. He also submitted 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.Arul Vadivel @ Sekar, learned Special Public Prosecutor appearing for the respondent-NCB, submitted that the respondent-NCB, after complying with the provisions of the Act and the Rules, seized 423 kilograms of ganja in this case, which constitutes a commercial quantity. He further submitted that the call detail records and other transactions between the accused persons were placed before this Court, which prima facie establish the involvement of the petitioner in the commission of the offence. He submitted that a perusal of the statements of A4 and the petitioner reveals that the petitioner was travelling with A4 in an Innova car near the Viralimalai Toll Gate, and that both were supervising while A1 and A2 were transferring the contraband from the Ashok Leyland vehicle to the Mahindra Bolero Pickup vehicle. He also submitted that, on 15.08.2023, the tower locations of the petitioner and the other accused were found to be near the



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Viralimalai Toll Gate. Based on the above facts, he contended that the petitioner was involved in the conspiracy, thereby attracting Section 29 of the NDPS Act. Hence, rigors stated in Section 37 of the NDPS Act would be applicable to petitioner. Therefore, he vehemently opposes to grant bail to the petitioner, stating that if bail is granted, the petitioner may abscond, thereby delaying the trial proceedings. Accordingly, he prays to dismiss the petition.

6. Heard on both sides and perused the records.

7. The earlier bail application in Crl.O.P (MD) No.1536 of 2024 was dismissed on 29.02.2024. The relevant portions are extracted hereunder:

“5.Considering the above facts and circumstances of the case and also considering the fact that the seized contraband involved in this case is a commercial quantity and the petitioner has not satisfied the twin conditions as required under Section 37 of the NDPS Act, this Court is not inclined to grant bail to the petitioner.

6.However, after the seizure procedure is over, the concerned Magistrate and the respondent Police are directed to comply with the guidelines enumerated under section 52(A) of NDPS Act and as per the guidelines issued by the Hon'ble Supreme Court of India in the case of Union of India Vs. Mohanlal and Another ((2016) 3 SCC 379).

7.In the result, this Criminal Original Petition is dismissed. ”



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8. A perusal of the records, including the Call Detail Records (CDR), reveals that the petitioner had contacted A4 multiple times. A perusal of the tower location of the petitioner and other accused's tower locations were near Virali Malai Toll gate. The above facts would prove that the accused was involved in the conspiracy attracting Section 29 of the NDPS Act. In this case, A1 (Parimala Doss @ Doss) had preferred a Petition for Special Leave to Appeal (Crl.) No(s).15025-15026 of 2024 before the Hon'ble Supreme Court of India, and the same was dismissed. The entire set of records clearly reveals that the involvement of the petitioner is similar to that of A1 in the commission of the offence. Hence, the rigors stated in Section 37 of the NDPS Act would be applicable to the present case. 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. In view of the facts and circumstances of the case, the nature of the offence allegedly committed by the petitioner, and considering the quantity of contraband involved in the case, which constitutes a commercial quantity, this Court is not inclined to grant bail to the petitioner.



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9. Accordingly, this Criminal Original Petition is dismissed.

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29/04/2025

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/05/2025
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 SPECIAL COURT FOR EC AND NDPS ACT CASES,
PUDUKKOTTAI,
PUDUKKOTTAI DISTRICT.
- 2.THE INTELLIGENCE OFFICER,
NARCOTICS CONTROL BUREAU,
MADURAI SUB ZONAL,
MADURAI DISTRICT.
- 3.THE OFFICER INCHARGE,
DISTRICT PRISON,
PUDUKKOTTAI.



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

ORDER
IN
CRL OP(MD) No.2515 of 2025
Date :29/04/2025

VN/12.05.2025 8P/5C

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