

CRL OP(MD)Nos.2713 & 2722 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2025

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP(MD).Nos.2713 and 2722 of 2025

Mahesh

... Petitioner / Accused No.3

in Crl.OP(MD).No.2713 of 2025

Duraimurugan

... Petitioner / Accused No.1

in Crl.OP(MD).No.2722 of 2025

Vs.

Union of India through
Jr. Intelligency Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai.

(NCB. F.No.48/1/22/2024/NCB/MDS)... Respondent / Complainant
in both cases

COMMON PRAYER :- The Criminal Original Petitions filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 praying to grant bail to the petitioners in NCB. F.No.48/1/22/2024/NCB/MDS on the file of the respondent-police.

For Petitioner : Mr.Subash Babu, Senior Advocate
(in both cases) for Mr.C.Susi Kumar, Advocate
for M/s.Subash Law Office

For Respondent : Mr.Arul Vadivel @ Sekar
(in both cases) Special Public Prosecutor for NCB Cases



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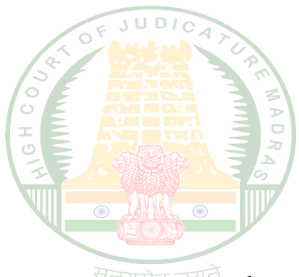
COMMON ORDER

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These Criminal Original Petitions have been filed by the petitioners on 10.02.2025 under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS) praying to grant bail.

2. The petitioners / Accused Nos.3 and 1 were arrested and remanded to judicial custody on 16.11.2024 for the alleged offences punishable under Sections 8 (c) read with 20(b)(ii)(C), 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, in NCB. F.No.48/1/22/2024/NCB/MDS on the file of the respondent-police.

3. The case of the prosecution is that on 13.11.2024 at 11.45 hours near Viraganoor Roundana, New Rameswaram Highway, Madurai, the respondent officials received a specific information that Accused No.3 (the petitioner in Crl.OP (MD).No.2713 of 2025) and one Balakrishnan were transporting a substantial quantity of ganja from Andhra Pradesh in an Ashok Leyland container vehicle bearing Reg.No. TN-88-J-2911 to be delivered to a Mahindra Jeeto vehicle bearing Reg.No.TN-66-AA-3305 driven by Accused No.1 (the petitioner in Crl.OP(MD). No.2722 of 2025). Based on information, the respondent officials conducted surveillance at the said location. On 14.11.2024 at 12:00 hours, they intercepted both vehicles. A3 was found in the Ashok Leyland vehicle, while A1 and Balakrishnan

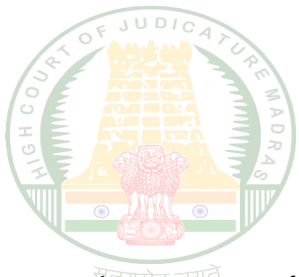


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were in the Mahindra Jeeto vehicle. The officials, introduced themselves as NCB officers, searched the alleged vehicles. Upon questioning, the accused persons admitted the possession of contraband stored in the Mahindra Jeeto vehicle. The accused persons pointed out three bags and a white plastic gunny bag, concealed with a yellow and red tarpaulin. Totally 23 packets were recovered out of which 12 from the bags and 11 from the gunny bag. Testing confirmed the substance as ganja, weighing 45 kgs. Thereafter, the petitioners were arrested on 15.11.2024 at 22:30 hours and remanded to judicial custody on 16.11.2024 for offences punishable under Sections 20(b)(ii)(C), 28 and 29 of the NDPS Act, 1985.

4. Mr.Subash Babu, the learned senior counsel for the petitioners, submits that the petitioners have been arrayed as Accused Nos.3 and 1. He further submits that the petitioners were not involved in any crime as alleged by the prosecution. He further submits that even according to the respondent-police, the alleged incident occurred on 13.11.2024, but the petitioners were arrested, and the case was registered only on 15.11.2024, two days later. He further submits that the petitioners were taken from Krishnagiri Town by the respondent-police and the respondent officials kept them for two days under their custody and foisted this false case against them. He further submits while arresting the petitioner, the respondent did not state the grounds of arrest. Further, the learned counsel emphasis the point that



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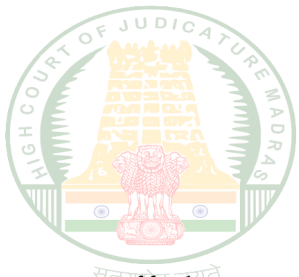
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the reasons for arrest is different from grounds of arrest. In this case, the respondent did not state / inform the grounds of arrest. Hence, the arrest of the petitioner is illegal. He further submits that the petitioners were arrayed as accused only based on the confession allegedly given by the co-accused. The confession statement of the co-accused under Section 67 of the NDPS Act is inadmissible. Hence, he prays to enlarge the petitioners on bail. Accordingly, he prays to allow the Criminal Original Petitions. In support of his submissions, he relied on the following judgments:-

(i) Judgment of the Hon'ble Supreme Court of India in Prabir Purkayastha -vs- State (NCT of Delhi) in Criminal Appeal reported in 2024 INSC 414.

(ii) Judgment of the Hon'ble Supreme Court of India in Arnesh Kumar -vs- State of Bihar and Anr. in Criminal Appeal No.1277 of 2014.

5. Per contra, Mr.Arul Vadivel @ Sekar, the learned Special Public Prosecutor appearing for the respondent-police, submits that the petitioners and the co-accused travelled in Ashok Leyland Container bearing Reg.No.TN-88-J-2911 and Mahindra Jeeto bearing Reg.No.TN-66-AA-3305 along with 45 kgs of ganja. On apprehension, all the three accused persons appeared before the respondent-police and tendered their voluntary statements, wherein they inter alia admitted their involvement in the procurement, possession, transportation, and criminal conspiracy in the illicit



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trafficking of 45 kgs of brownish-green dried flowering tops, believed to be ganja, which was seized on 13.11.2024. The respondent-police have strictly complied with the mandatory provisions of law regarding search, seizure and arrest. Furthermore, he submits that the confession statement reveals that one Amjath Khan has procured 23 packets of ganja from Bhubaneswar along with Balakrishnan. The said contraband was trafficked using the Ashok Leyland container, driven by A3, and subsequently delivered to the Mahindra Jeeto, which was driven by A1. The petitioners were fully aware of the consequences of drug trafficking, as admitted in the confession statement. Additionally, the seized contraband qualifies as a commercial quantity. The investigation is still ongoing, and certain other persons are yet to be apprehended and interrogated. He further submits that the accused persons including the petitioners committed a cognizable offence and if the petitioners are released on bail, they may abscond and commit similar offence and hamper the investigation. Accordingly, he prays to dismiss the Criminal Original Petition. In support of his submissions, he relied on the order of this Court in Roshan Beevi and Ors. -vs- Joint Secretary to Government of Tamil Nadu and Ors. in W.P.Nos.5016, 5244, 6192, 6193 and 6800 of 1983 reported in MANU/TN/0028/1983.

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

<https://www.mhc.tn.gov.in/judis>

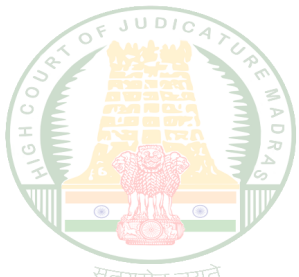


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7. Contraband seized from the petitioner is of a commercial quantity. The investigation is at a crucial stage. The seizure took place on 13.11.2024. The Call Detail Records (CDR) of the petitioners and other accused are awaited. The investigation has so far revealed that the seized contraband was procured by one Amjath Khan along with the said Balakrishnan from Bhubaneswar. The contraband was trafficked by A3 in the Ashok Leyland container and subsequently handed over to A1. It is further stated that Amjath Khan is still absconding, and the respondent-police are actively searching for him. The investigation is also focused on identifying the source from whom the contraband was procured.

8. Therefore, this Court is of the considered view that the petitioners have not satisfied the twin condition stated in Section 37 of the NDPS Act. Furthermore, the investigation agency has complied the mandatory provisions of law. Furthermore, on perusing of the materials, it is evident that the petitioners were arrested only on 15.11.2024 and were produced before the Magistrate within 24 hours from the date of arrest. This Court has perused the copy of the Arrest Memo dated 15.11.2024 and Arrest intimation dated 15.11.2024. This Court, prima facie, does not find any procedural violation in the seizure of contraband, arrest, and communication. To be noted, the above view is recorded only for the limited purpose of deciding the bail petition. The above view would not, in any way, cause prejudice to the rights of the



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petitioners to defend the case during the Trial. In view of the facts and circumstances of the case and the overt act alleged against the petitioners and in view of the rigors of Section 37 of the NDPS Act, 1985, this Court is not inclined to grant bail to the petitioners.

9. Accordingly, these Criminal Original Petition are dismissed.

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07.03.2025

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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To

- 1.The Jr. Intelligency Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai.
- 2.The Superintendent,
Central Prison,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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SL(19.03.2025)/ 7P/ 4C

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