



CRL.OP (MD) No.3392 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2025

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP (MD) No.3392 of 2025

V.Parthiban

... Petitioner / Accused No.4

Vs.

The State of Tamil Nadu rep by
The Inspector of Police,
PEW Madurai City P.S.,
Madurai District.
(Crime No.706 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 C.C.No.427 of 2024 on the file of the II Additional District Judge for EC and NDPS Cases, Madurai in connection with Crime No.706 of 2024 on the file of the respondent-police.

For Petitioner : Mr.C.Kannan,
Advocate.

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

ORDER : The Court made the following order :-



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This Criminal Original Petition has been filed by the petitioner on 20.02.2025 under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to grant bail.

2. The petitioner/A4 was arrested and remanded to judicial custody on 29.06.2024 for the offences punishable under Sections 8(c) read with 20(b)(ii)(C) and 29(1) of Narcotic Drugs & Psychotropic Substances Act, 1985, in Crime No.706 of 2024 on the file of the respondent-police.

3. The case of the prosecution is that on 12.06.2019, at about 23.00 hours, the Sub-Inspector of Police received secret information about the sale of 'Ganja'. Based on the same, the police party proceeded to the spot and intercepted A3. Upon search, the police found that A3 was in possession of 4.750 kilograms of ganja and seized the same. A3 confessed that he had purchased it from A1. Based on this information, on the following day, i.e., in continuation of the proceedings, the police team went to the house of A1. At that time, on seeing the police, A1 escaped from the place. A3 went into the house of A1 and handed over a bag taken from the house, which contained 28.140 kilograms of ganja. Thereafter, A1 surrendered before the learned Judicial Magistrate No.IV, Madurai, on 15.06.2024 and was remanded to judicial custody. On



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21.06.2024, based on the confession of A1, the respondent-police recovered 1.250 kilograms of ganja, which A1 had also kept hidden in another house. A1 further informed the police about the involvement of A2 and the petitioner/ A4. Accordingly, on 28.06.2024, A2 and the petitioner/ A4 were arrested while they were travelling in a car, and 5 kilograms of ganja was seized from them. Based on their confession, it came to light that A5 is the wholesale dealer from whom A2 and the petitioner/ A4 had purchased ganja and sold the same to A1, from whom A3 had purchased it. There are a total of five accused persons in this case, and the petitioner has been arrayed as A4. A5 is still absconding. Thus, a total of 39.140 kilograms of ganja was seized from all the accused persons. Hence, the case.

4. Mr.C.Kannan, the learned counsel appearing for the petitioner, submits, that the petitioner has nothing to do with the alleged offence. He further submits that a false case has been foisted against the petitioner and that the petitioner has been in incarceration since 29.06.2024. He further submits that the investigation has been completed and the final report has been filed, which was taken by the file of the learned Special Judge, Principal Special Court for NDPS Act cases, Madurai District in C.C.No.427 of 2024. He further submits that the petitioner is ready to abide by any conditions that may be imposed by this Court. Therefore, he prays for granting bail to



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the petitioner.

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5. Per contra, Mr.R.Meenakshi Sundaram, the learned Additional Public Prosecutor appearing for the respondent-police, submits that there are a total of five accused persons in this case, and the petitioner has been arrayed as A4. He further submits that A5 is the wholesale dealer from whom A2 and the petitioner/A4 had purchased ganja and sold it to A1, who, in turn, sold it to A3. He further submits that there is one previous case against the petitioner. He also submits that since the petitioner and the other accused persons purchased the contraband with a common intention to sell it illegally and earn money and all the recoveries and seizures arose out of the same course of events, the recovery of ganja from the other accused persons should be taken into account while deciding whether the contraband constitutes a commercial quantity or not, and that the total contraband seized from all the accused persons comes within the category of commercial quantity. Further, he submits that the rigors stated in Section 37 of the NDPS Act would be applicable to this case. He relies upon the judgment of the Hon'ble Supreme Court in Narcotics Control Bureau v. Mohit Aggarwal, reported in (2022) 18 SCC 374. The learned Additional Public Prosecutor therefore prays to dismiss this Criminal Original Petition.



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6. This Court has considered the rival submissions made. This Court has perused records including the FIR and the Charge Sheet.

7. A bare perusal of the FIR would show that on 12.06.2019, the respondent-police seized 4.750 kgs of ganja from A3, and on the following day, i.e., in continuation of the proceedings, the respondent-police, based on the information of A3, went to the house of A1. At that time, on seeing the police, A1 escaped from the place. A3 went into the house of A1 and handed over a bag taken from the house, which contained 28.140 kilograms of ganja. A perusal of the other records, including the charge sheet, would show that A1 surrendered before the learned Judicial Magistrate No.IV, Madurai, on 15.06.2024 and was remanded to judicial custody. On 21.06.2024, based on the confession of A1, the respondent-police recovered 1.250 kilograms of ganja, which A1 had also kept hidden in another house. A perusal of the Final Report filed by the respondent-police and the other records would further show that on 28.06.2024, i.e., 16 days from the date of the first seizure, the respondent-police arrested the petitioner (A4) and A2 and seized 5 kgs of ganja from them, which is admittedly an intermediate quantity. The submission of the learned Additional Public Prosecutor is that the previous recoveries of ganja from the co-accused persons



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should be taken into account while deciding whether the contraband constitutes a commercial quantity or not. This Court is not inclined to accept the above submission for the reason that the seizures were not made at the same time. Hence, this Court is of the view that even though the case of the prosecution is that on 12.06.2024, 4.750 kgs of ganja was recovered from A3, and 28.140 kgs of ganja was recovered from the house of A1 with the help of A3, and on 21.06.2024, 1.250 kgs of ganja was recovered from A1, the quantity of contraband seized from A2 and the petitioner/ A4 (5 kgs) on 28.06.2024 is intermediate, and the rigors stated in Section 37 of the NDPS Act would not be applicable to the case of the petitioner. To be noted, the above view is recorded only for the purpose of deciding the bail petition. The above view, in any way, would not cause any prejudice to the rights of the prosecution in establishing the case during the trial. Considering the same and also taking note of the period of incarceration 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:

(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, II Additional



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District Court for EC and NDPS Act cases, Madurai District.

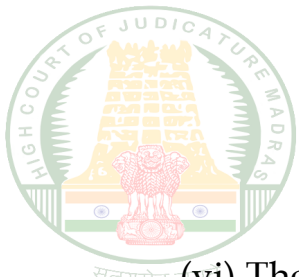
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(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judge, II Additional District Court for EC and NDPS Act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

(iii) The petitioner shall furnish his residential address and mobile number to the learned Judge, II Additional District Court for EC and NDPS Act cases, Madurai District.

(iv) The petitioner shall appear and sign before the learned Judge, II Additional District Court for EC and NDPS Act cases, Madurai District, on all working days, at 10.00 a.m. until further orders.

(v) 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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(vi) The petitioner shall not commit an 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) On breach of any of the aforementioned conditions, the learned Judge, II Additional District Court for EC and NDPS Act cases, Madurai District 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].

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

sd/-
26/03/2025

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/03/2025
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 II ADDITIONAL DISTRICT JUDGE,
FOR EC AND NDPS ACT CASES, MADURAI DISTRICT.
- 2 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE,
PEW MADURAI CITY POLICE STATION,
MADURAI CITY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.C.KANNAN, Advocate (SR-3500[I] dated 26/03/2025)

ORDER
IN

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Date :26/03/2025

HPS/SAR / 27.03.2025/9P/6C

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