



CRL OP(MD). No.3955 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 08/04/2025

PRESENT

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

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B.Senthil Kumar,

... Petitioner/ Accused No.2

Vs

The State of Tamil Nadu,
Rep by the Inspector of Police,
NIBCID,
Nagapattinam District.
Crime No.53 of 2019

... Respondent/Complainant

For Petitioner : Mr.Sakthivel.K,
Advocate.

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

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :- For Bail in Crime No.53 of 2019 on the file of the respondent-police.
ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 27.02.2025
under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to



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grant bail.

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2. The petitioner/ Accused No.2 was arrested and remanded to judicial custody on 14.01.2025 for the offences punishable under Sections 8(c), 20(b)(ii)(C), 29(ii)(A) and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.53 of 2019, on the file of the respondent-police.

3.The case of the prosecution is that, on 03.10.2019, at about 10:30 p.m., the defacto complainant, the Inspector of Police, Mannarkudi Circle, Mannarkudi, along with his team, was conducting a vehicle check-up near Thangamani Building, situated on the Thanjavur-Thiruthuraipoondi Main Road. During the check-up, they intercepted a white Xylo car bearing Registration No.TN-10-AE-5725. Upon seeing the police, an unknown accused person fled from the vehicle. The driver of the car (A1) was apprehended. Upon search, it was found that the accused persons were transporting 300 kgs of ganja in the said vehicle. The police seized the car along with the contraband and handed it over to the respondent-police. In the year 2024, A1 gave a confession statement. Based on the said confession, the petitioner herein has been arrayed as Accused No.2 in this case and was arrested on 14.01.2025. Hence, the case.

4. Mr.K.Sakthivel, learned counsel appearing for the petitioner, submits that the petitioner has nothing to do with the alleged offence and that only based on the confession of A1, the petitioner has been arrayed as Accused No.2. He further submit



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that the petitioner was arrested on 14.01.2025 and the respondent filed a charge sheet.

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He further submits that the petitioner is ready to abide by any conditions to be imposed by this Court. He further submits that if bail is granted to the petitioner, he will not abscond. He further submits that except the confession, no other material or evidence is available on record against the petitioner. Therefore, he prays for granting bail to the petitioner.

5. Per contra, Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor appearing for the respondent-police, submits that the police seized 300 kgs of ganja from A1 on the spot, which constitutes a commercial quantity. He further 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 the petitioner has connection with the crime, the recovery of ganja from the other accused person should be taken into account and that the contraband seized from the other 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. He further submits that the respondent-police filed counter and in the counter affidavit, it has been specifically stated as follows:



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5.I respectfully state that the mobile phone number 9344469725 was used for communication, confirming that the first accused was engaged in the crime using the internet. The evidence was submitted to the Court in compliance with Sect.63 (4)(c)BSA 2023 Act, and the accused were produced before the Special Court for Essential Commodities, Thanjavur, for remand. Further, the police party made CDR request before the Crime Branch, Nagapattinam, on the following phone Numbers viz., 9344469725 of the connected accused persons. Then, the police party made request to the motor vehicle Inspector for the vehicles Xylo Car bearing Registration No.TN 10 AE 5725 and obtained for the verification.

5.1. The learned Additional Public Prosecutor therefore prays to dismiss this Criminal Original Petition.

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

7. The petitioner was arrested on 14.01.2025 and has been in judicial custody since then. Admittedly, 300 kgs of contraband, which has been seized from A1 alone, is a commercial quantity. Except the confession of A1, no other material is available on record to connect the petitioner with the above crime. In the absence of any



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material connecting the petitioner with the alleged offence and in view of the fact that no contraband was recovered from him, it cannot be stated that the rigors stated in Section 37 of the NDPS Act would be applicable to the petitioner. Therefore, this Court is of the opinion that the petitioner has made out prima facie case for grant of bail and the further custody of the petitioner is not necessary in this case. It is to be noted that the above view is recorded only for the limited purpose of deciding this bail petition. This view, in any way, would not cause any prejudice to the rights of the prosecution in establishing its case during the trial. Further, the petitioner has permanent residence, and therefore, there is less possibility of absconding.

8. Considering the above and taking note of the period of incarceration, this Court is inclined to grant bail to the petitioner, however, subject to certain conditions. Accordingly, bail is granted to the petitioner 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 Principal District Judge for EC and NDPS Act Cases, Thanjavur;

(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 Principal District Judge for EC and NDPS Act Cases,



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Thanjavur, shall obtain a copy of any one of identity proofs to ensure their identity;

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(iii) The petitioner shall furnish his residential address and mobile number to the learned Principal District Judge for EC and NDPS Act Cases, Thanjavur;

(iv) The petitioner shall appear and sign before the learned Principal District Judge for EC and NDPS Act Cases, Thanjavur, on all working days, at 10.30 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;

(vi) 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;

(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 his from disclosing such facts to the Court or to any police officer or tamper with the evidence; and

(viii) On breach of any of the aforementioned conditions, the learned Principal District Judge for EC and NDPS Act Cases, Thanjavur, 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].



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

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

VSG
TO

1 THE PRINCIPAL DISTRICT JUDGE
FOR EC AND NDPS ACT CASES, THANJAVUR.

2 THE OFFICER INCHARGE,
DISTRICT PRISON, NAGAPATTINAM.

3 THE INSPECTOR OF POLICE,
NIBCID,
NAGAPATTINAM DISTRICT.

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

+1 CC to M/s.K.SAKTHIVEL, Advocate (SR-4128[I] dated 09/04/2025)

ORDER IN
CRL OP(MD) No.3955 of 2025
Date :08/04/2025

SA/SAR. /09.04.2025/7P/6C

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