



CRL OP (MD) No.4278 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/04/2025

PRESENT

The HONOURABLE MR. JUSTICE R. SAKTHIVEL

CRL OP (MD) No.4278 of 2025

M.Sakthivel

... Petitioner/ Accused No.3

Vs

The State of Tamil Nadu
Rep. by the Inspector of Police,
PEW-Melur Police Station,
Madurai.
Crime No.569 of 2024.

... Respondent/ Complainant

For Petitioner : Mr.Manimaran.Na,
Advocate

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

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :-

For Bail in Crime No.569 of 2024 on the file of the respondent-police.



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ORDER: The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 05.03.2025 under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to grant bail.

2. The petitioner/Accused No.3 was arrested and remanded to judicial custody on 17.10.2024 for the offences punishable under Sections 8(c), 20(b)(ii)(C), 25 and 29 (1) of the Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.569 of 2024, on the file of the respondent-police.

3. The case of the prosecution is that, on 15.10.2024, at about 19.00 hours, based on secret information, the Sub-Inspector of Police, along with his team, was conducting a vehicle check-up near the Trichy-Madurai Four-Way Track. During the check-up, they intercepted an Ashok Leyland Lorry bearing Registration No.TN-64-AA-0127. Upon seeing the police, the driver of the Lorry attempted to flee from the place of occurrence. However, the police party apprehended Accused No.1, conducted a search, and found that the accused were transporting 85 kgs of ganja in the said vehicle. The police seized the contraband and the vehicle. Subsequently, on 16.10.2024, based on the confession of Accused No.1, the police conducted a search of the petitioner's house and found that the petitioner was in possession of 1.950 kgs of



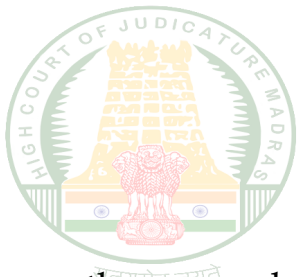
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ganja in his vehicle bearing Registration No. TN-48-M-3388 parked there. The contraband was seized by the respondent-police. Hence, the case.

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4. Mr.NA.Manimaran, 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 co-accused, the petitioner has been arrayed as Accused No.3. He further submit that the petitioner was arrested on 17.10.2024 and that the respondent filed a charge sheet. 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 1.950 kgs of ganja from the petitioner. 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 all the recoveries and seizures arose out of the same course of events and the petitioner has connection with the crime, the recovery of ganja from all the 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

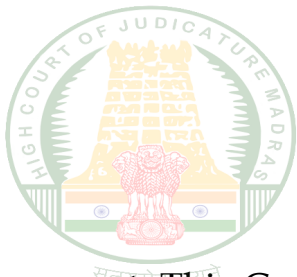


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the accused persons comes within the category of commercial quantity. Further, he submits that the rigors stated in Section 37 of the NDPS Act would be applicable to this case. He relies upon the judgment of the Hon'ble Supreme Court in Narcotics Control Bureau v. Mohit Aggarwal, reported in (2022) 18 SCC 374. The learned Additional Public Prosecutor therefore prays to dismiss this Criminal Original Petition.

6. Heard on both sides. Perused the records.

7. The petitioner was arrested on 17.10.2024 and has been in judicial custody since then. A bare perusal of the FIR would show that, on 15.10.2024 at about 19.00 hours, the respondent-police intercepted an Ashok Leyland lorry bearing Registration No.TN-64-AA-0127 and recovered 85 kgs of ganja (admittedly a commercial quantity) from Accused No.1, who was the driver of the said lorry. Subsequently, on 16.10.2024, based on the confession of Accused No.1, the respondent-police proceeded to the petitioner's house and recovered 1.950 kgs of ganja (admittedly an intermediate quantity) from the petitioner's vehicle. The submission of the learned Additional Public Prosecutor is that since the petitioner/A3 has a direct connection with the other accused persons with regard to the purchase and transportation of ganja, the recoveries of ganja from the other accused persons should be taken into account while deciding whether the contraband constitutes a commercial quantity or

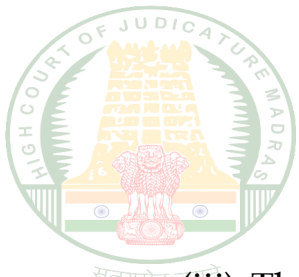


not. This Court is not inclined to accept the above submission for the reason that the seizures were not made at the same time. Hence, this Court is of the view that the rigors stated in Section 37 of the NDPS Act would not be applicable to the case. To be noted, the above view is recorded only for the 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.

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.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 Special Principal District Judge for EC and NDPS Act Cases, Madurai;

(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 Special Principal District Judge for EC and NDPS Act Cases, Madurai, 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 Special Principal District Judge for EC and NDPS Act Cases, Madurai;

(iv) The petitioner shall appear and sign before the learned Special Principal District Judge for EC and NDPS Act Cases, Madurai, 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 Special Principal District Judge for EC and NDPS Act Cases, Madurai 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.

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15/04/2025

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16 /04/2025
Sub-Assistant Registrar (CS-I/II/III/IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

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

2 THE INSPECTOR OF POLICE,
PEW-MELUR POLICE STATION,
MADURAI.

3 THE OFFICER INCHARGE,
DISTRICT PRISON DINDIGUL

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

+1 CC to M/s.NA.MANIMARAN, Advocate (SR-4277[I] dated 16/04/2025)



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ORDER
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