



CRL.OP (MD) No.4734 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 23.04.2025

Pronounced on : 29.04.2025

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THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP (MD) No.4734 of 2025

Guna

... Petitioner / Accused No.17

Vs.

The State of Tamil Nadu rep by
The Inspector of Police,
Kundrakudi Police Station,
Sivagangai District.
(Crime No.112 of 2024)

... Respondent / Complainant

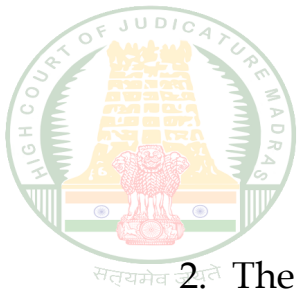
PRAYER :- The Criminal Original Petition filed under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita (BNSS), 2023 praying to grant bail to the petitioner in
Crime No.112 of 2024 on the file of the respondent-police.

For Petitioner : Mr.S.Ramesh Kumar, Advocate

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

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 11.03.2025
under Section 483 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying to
grant bail.



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2. The petitioner/Accused No.17 was arrested and remanded to judicial custody on 14.11.2024 for the alleged offences punishable under Sections 8(c) r/w 20 (b)(ii)(C), 29(1) and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985, and Section 111 of Bharatiya Nyaya Sanhita (BNS), 2023, in connection with Crime No.112 of 2024 on the file of the respondent-police.

3. The case of the prosecution, as per the final report, is that on 07.07.2024, at about 13:00 hours, the Sub-Inspector of Police received credible information regarding illegal activity. Acting upon this information, the police team proceeded to the specified location, where they found a car bearing Registration No. AP-30-AA-2929 with Accused Nos.2 to 6 inside. While enquiring with them, they noticed Accused Nos.9 to 11 standing near a bridge in the vicinity. The respondent-police attempted to apprehend them. However, upon seeing the police, they fled the scene on a two-wheeler without a registration number. During the same incident, Accused Nos. 2 to 6 also escaped from the location using the said car. Accused No.12 fled the scene. A search of the area under the bridge led to the recovery of 61 bundles, which were later confirmed to be ganja. The contraband was seized and weighed in the presence of the Revenue Inspector and the Village Administrative Officer, resulting in the recovery of 122 kilograms of ganja. An alert was issued to the nearest districts, including toll gates. Subsequently, it was learned that the car which had fled from the



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scene was intercepted near the Samayapuram Toll Gate by the police, and Accused Nos. 2 to 6 were apprehended. At the time of arrest, they were found to be in possession of 2 kilograms of ganja. During the course of the investigation, the involvement of other accused persons came to light. The role of Accused No.13 was revealed based on the confession of Accused No. 9. It was found that Accused No. 13 had met Accused No. 1 and facilitated the identification of buyers for the contraband, who were later identified as Accused Nos. 9, 10, and 12. Accused No. 11 was involved in arranging the transport and unloading of the contraband. Further, the confession of Accused No. 13 led to the identification of Accused No. 14, who in turn disclosed the involvement of Accused Nos. 15 to 21. In total, 21 accused persons have been implicated in this case. The petitioners herein has been arrayed as A17.

4. Mr.S.Ramesh Kumar, 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 has been in judicial custody since 14.11.2024 and that no contraband was recovered from the petitioner. He further submitted that the petitioner has been falsely implicated in this case only based on the confession statement of the co-accused. The alleged communication between the petitioner and the other accused has not been substantiated with any call detail records or supporting evidence. The petitioner was implicated based on the



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confession of A9. A formal arrest was made while the petitioner was already in jail, on the allegation that the conspiracy took place within the prison premises. A detention order was also passed against the petitioner, which was subsequently revoked by the Advisory Board. He, however, submitted that the petitioner is ready to abide by any stringent conditions that may be imposed by this Court. Accordingly, he prayed to grant bail to the petitioner.

5. Per contra, Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor appearing for the respondent-police, submitted that apart from the confession statements of the accused persons, there are sufficient materials available on record to connect the petitioner with the other co-accused and to establish the conspiracy. The petitioner herein maintained close contact with the co-accused and actively participated in the distribution of ganja bundles across the Karaikudi Region. He also functioned as a retail seller of the contraband. He also submitted that the trial is at initial stage. If the petitioner is enlarged on bail at this stage, he will abscond, tamper with prosecution witnesses, and thereby derail the fair trial process. It is also pertinent to note that the petitioner has four previous criminal cases registered against him under various provisions of the Indian Penal Code, which reflects his propensity to indulge in unlawful activities. Therefore, the learned Additional Public Prosecutor vehemently opposed to grant bail to the petitioner.



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6. Heard on both sides and perused the records.

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7. A perusal of the records indicates that there is no recovery of contraband from the petitioner, and his implication in the present case is only based on the confession of a co-accused, with no additional incriminating material on record. In view of the same, the petitioner appears to have a strong arguable case. This Court also takes into consideration the prolonged period of incarceration already undergone by the petitioner. Further, the records reveal that there are no other substantive materials connecting the petitioner to the alleged offence, apart from the said confession. In the absence of independent evidence establishing the petitioner's involvement, it cannot be stated that the rigors contemplated under Section 37 of the NDPS Act would be attracted in the present 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. Considering the above and also considering 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



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Thousand only) to the satisfaction of the learned Judge, Special Court of EC Act and NDPS Act Cases, Pudukkottai.

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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, Special Court of EC Act and NDPS Act Cases, Pudukkottai shall obtain a copy of any one of identity proofs to ensure their identity.

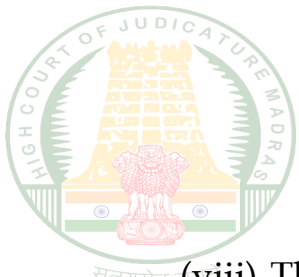
(iii) The petitioner shall attend in accordance with the conditions of the bond to be executed under Chapter XXXV of BNS, 2023.

(iv) 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.

(v) 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.

(vi) The petitioner shall appear and sign before the learned Judge, Special Court of EC Act and NDPS Act Cases, Pudukkottai, on all working days at 10.30 a.m. until further orders.

(vii) The petitioner shall not leave Tamil Nadu without prior permission of the Trial Court.



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(viii) The petitioner shall furnish his residential address and mobile number to the concerned Judge, Special Court of EC Act and NDPS Act Cases, Pudukkottai and shall keep his mobile phone switched on and reachable.

(ix) On breach of any of the aforementioned conditions, the learned Judge, Special Court for Trial of 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].

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

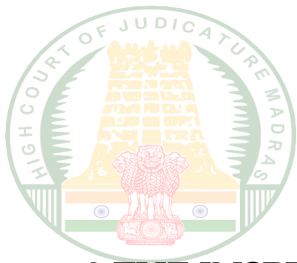
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Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PAL
TO
1 THE JUDGE,
SPECIAL COURT OF EC ACT AND NDPS ACT CASES,
PUDUKKOTTAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.



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3 THE INSPECTOR OF POLICE,
KUNDRAKUDI POLICE STATION,
SIVAGANGAI DISTRICT.

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

+1 CC to M/s.R.L.DHILIPAN PANDIAN, Advocate (SR-5068[I] dated 29/04/2025)

+1 CC to M/s.S.RAMESH KUMAR, Advocate (SR-5280[I] dated 30/04/2025)

ORDER
IN
CRL OP(MD) No.4734 of 2025
Date :29/04/2025

SA/SAR. /30.04.2025/8P/7C

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