

CRL OP (MD) No.5648 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 21.04.2025

PRESENT

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

CRL OP (MD) No.5648 of 2025

Rajkumar

... Petitioner/ Accused No.1

Vs.

The State of Tamil Nadu

Rep. by the Inspector of Police,

S.S.Colony Police Station,

Madurai City.

Crime No.227 of 2024

... Respondent/Complainant

For Petitioner : Mr.Anantha Padmanaban,

Senior Counsel

for M/s.APN Law Associates

For Respondent : Mr.R.Meenakshi Sundaram,

Additional Public Prosecutor

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :-

For bail in Crime No.227 of 2024 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 24.03.2025 under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 praying to grant bail.

2. The petitioner/A1 was arrested and remanded to judicial custody on



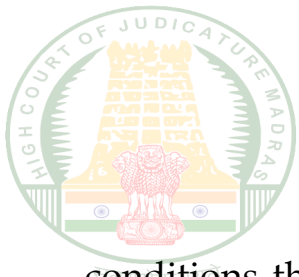
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02.05.2024 for the alleged offences punishable under Sections 8(c), 20(b)(ii)(B) read with Sections 25 and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.227 of 2024 on the file of the respondent-police.

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3. The case of the prosecution is that on 02.05.2024, at about 18.50 hours, based on secret information received, the respondent-police were conducting a vehicle check-up near Viratipathu Union Office, Madurai, on Kalavasal to Theni Main Road. At that time, the police found that the petitioner (A1) was in possession of 1.600 kgs of ganja in a Ford Aspire car bearing Registration No. TN-58-AL-9513. The respondent-police arrested the petitioner (A1) and seized the contraband from him. Based on the confession of the petitioner (A1), on 15.05.2024, the Accused No.3 was arrested. Following the same, on the same day, based on the information given by A3, A4 and A5 were arrested, and the respondent-police seized 13.500 kgs of ganja from them. Following the same, on 18.05.2024, near the entrance of the Omni Bus Stand, Mattuthavani, A6, A7 & A8 were arrested, and 8.500 kgs of ganja was seized from A6 and A7. Hence, the case.

4. Mr.Anantha Padmanaban, learned Senior Counsel appearing for the petitioner, submits the petitioner has nothing to do with the alleged offence and that a false case has been foisted against the petitioner. He further submits that the petitioner has been in judicial custody since 02.05.2024 and is ready to abide by any



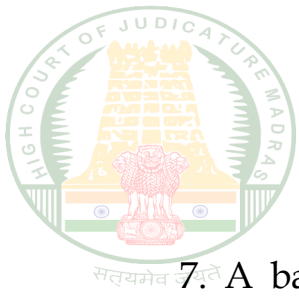
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conditions that may be imposed by this Court. Hence, he prays for granting bail to the petitioner.

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5. Per contra, Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor appearing for the respondent-police, submits that in this case, 1.500 kgs of ganja was seized from the petitioner/Accused No.1 on 02.05.2024, 13.500 kgs of ganja was seized from Accused Nos.3, 4 and 5 on 15.05.2024, and 8.500 kgs of ganja was seized from Accused Nos.6 and 7 on 18.05.2024. He further submits that the petitioner has no previous case. 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.

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



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7. A bare perusal of the FIR would show that on 02.05.2024, at about 18.50 hours, the respondent-police intercepted the Ford Aspire car of the petitioner/A1 and seized 1.600 kgs of ganja from him, which is admittedly an intermediate quantity. A perusal of the Final Report filed by the respondent-police and the other records would show that on 15.05.2024, i.e., 13 days after the first seizure, the respondent-police arrested A3. At that time, no contraband was recovered from A3. Based on the information given by A3, the respondent-police proceeded to arrest A4 and A5. Thereafter, the respondent-police arrested A4 and A5 and recovered 13.500 kgs of ganja from them. Subsequently, on 18.05.2024, the respondent-police arrested A6 to A8 and recovered 8.500 kgs of ganja from A6 and A7.

8. The submission of the learned Additional Public Prosecutor is that the further recoveries of ganja from the co-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 quantity of contraband seized from the petitioner (A1) is intermediate, and the rigors stated in Section 37 of the NDPS Act would not be applicable to 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.

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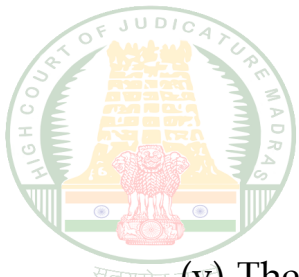
9. Considering the above, and also considering the facts that the petitioner has permanent residence, and therefore, there is less possibility of absconding, and with a view to give an opportunity to the petitioner to reform himself, this Court is inclined to grant an order of bail to the petitioner, 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 Principal Special 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 Principal Special Judge for EC and NDPS Act Cases, Madurai 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 Principal Special Judge for EC and NDPS Act Cases, Madurai;

(iv) The petitioner shall appear and sign before the learned Principal Special Judge for EC and NDPS Act Cases, Madurai on all working days at 10:30 a.m., until further orders;



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(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 him 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 Special 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].

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

sd/-
21/04/2025

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22/04/2025

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



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To
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- 1.The Principal Special Judge for EC and NDPS Act Cases, Madurai.
 - 2.The Superintendent of Prison, Central Prison, Madurai.
 - 3.The Inspector of Police, S.S. Colony Police Station, Madurai City.
 - 4.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.
- +1 CC to M/s.M/S.APN LAW ASSOCIATES, Advocate (SR-4438[I] dated 21/04/2025)

ORDER
IN
CRL OP(MD) No.5648 of 2025
Date :21/04/2025

NBF/SAR/ (22/04/2025) 7P/6C

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