

CRL.OP(MD). No.5553 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2025

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.OP(MD). No.5553 of 2025

Sanjeevkumar

... Petitioner / Accused No.3

Vs.

The State of Tamil Nadu rep by
The Inspector of Police,
Appanthirupathy Police Station,
Madurai District.
(Crime No.92 of 2018)

... Respondent / Complainant

PRAYER :- The Criminal Original Petition filed under Section 482 of the Bharatiya
Nagarik Suraksha Sanhita (BNSS), 2023 praying to grant pre-arrest bail to the
petitioner in Crime No.92 of 2018 on the file of the respondent police.

For Petitioner : Mr.S.Jai Surya Prakash,
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 24.03.2025
under Section 482 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying



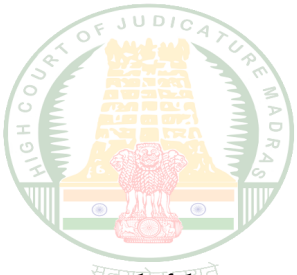
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to grant an order of pre-arrest bail.

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2. The petitioner apprehends arrest at the hands of the respondent-police based on the Non-Bailable Warrant issued by the learned I Additional District Judge for NDPS Act, Madurai in C.C.No.393 of 2022 for the offences punishable under Sections 8(c) and 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985, @ Sections 8(c), 20(b)(ii)(C), 25 and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985, in connection with the Crime No.92 of 2018 on the file of the respondent-police.

3. The case of the prosecution is that, on 05.04.2018 at about 19.00 hours, the Special Sub-Inspector of Police, while on patrol duty, intercepted a Mahindra Verito car bearing Registration No.TN-60-K-2748 and found the accused persons in possession of 150 kilograms of ganja, which had been purchased from Andhra Pradesh with the intention of illegal sale. The accused were apprehended by the respondent police. The petitioner was later enlarged on bail in Crime No.92 of 2018. After completion of investigation, the respondent-police filed final report and the same was taken on file by the learned I Additional District Judge for E.C. and NDPS Act Cases, Madurai in C.C.No.393 of 2022. Due to non-appearance of the petitioner, the Trial Court issued Non-Bailable Warrant against the petitioner on 05.09.2024. The petitioner reasonably apprehends that if he surrenders before the Trial Court



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and files a petition to recall the Non-Bailable Warrant (NBW) issued against him, the Trial Court may not accept his surrender and may instead remand or detain him in judicial custody. Hence, the petitioner has filed the present petition seeking an order of pre-arrest bail.

4. Mr.S.Jai Surya Prakash, the learned counsel for the petitioner, submits that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He further submits that the petitioner was enlarged on bail. After conducting investigation in the above crime number, final report was filed before the learned I Additional District Judge for NDPS Act, Madurai and the same was taken on file in C.C.No.393 of 2022. When the case was posted on 05.09.2024, the petitioner failed to appear before the Trial Court due to ill health. Hence, the Trial Court issued a Non-Bailable Warrant (NBW) against the petitioner. The petitioner reasonably apprehends that if he surrenders before the Trial Court and files a petition to recall the Non-Bailable Warrant (NBW), the Trial Court may not accept his surrender and may instead remand or detain him in prison. Hence, the petitioner seeks an order of pre-arrest bail. He however submits that the petitioner is ready to abide any conditions to be imposed by this Court. Accordingly, he prays to grant an order of pre-arrest bail to the petitioner.

5. *Per contra*, Mr.R.Meenakshi Sundaram, the learned Additional Public



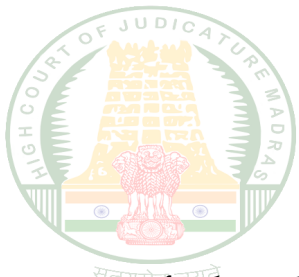
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Prosecutor appearing for the respondent-police, submits that there are totally five accused persons in this case and the petitioner has been arrayed as A3. He further submits that the petitioner was enlarged on bail. After completion of the investigation in the above crime number, final report was filed before the learned I Additional District Judge for NDPS Act Cases, Madurai, and the same was taken on file in C.C.No.393 of 2022. In the meantime, the petitioner absconded while on bail and failed to appear before the Trial Court on 05.09.2024. Consequently, a Non-Bailable Warrant was issued against the petitioner for his non-appearance. He further submits that at this stage, if the pre-arrest bail is granted to the petitioner, he will abscond and tamper the evidence. Accordingly, he prays to dismiss this Criminal Original Petition.

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

7. The petitioner herein is facing trial in C.C. No. 393 of 2022 on the file of the Trial Court. This Court has perused the records available on the e-Courts website, and it is seen that the petitioner was regularly appearing before the Trial Court until 05.09.2024. However, on 05.09.2024, the petitioner was absent, and consequently, the Trial Court issued a Non-Bailable Warrant (NBW) against him. The petitioner has stated that he was unable to appear before the Trial Court on that date due to ill health. Upon considering the explanation offered in the petition, this Court is



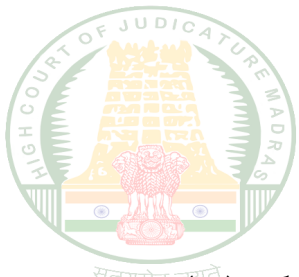
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satisfied with the reasons stated. In view of the nature of the offence allegedly committed by the petitioner, and considering the reasons stated in the petition explaining his non-appearance before the Trial Court, this Court is of the view that the petitioner's apprehension of arrest is reasonable. Considering the same and also considering the facts and circumstances of the case, and with a view to give one more opportunity to the petitioner to reform himself, this Court is inclined to grant pre-arrest bail to the petitioner. Accordingly, pre-arrest bail is granted to the petitioner subject to the following conditions:

(i) The petitioner shall be released on pre-arrest bail in the event of his arrest or in the event of his surrender before the learned I Additional District Judge for NDPS Act, Madurai, within a period of 15 days from the date on which the order copy is made ready, on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) along with one surety for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the learned I Additional District Judge for NDPS Act, 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 Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity.



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(iii) The petitioner shall appear and sign before the learned I Additional District Judge for NDPS Act cases, Madurai on all working days without fail.

(iv) The petitioner shall make himself available for interrogation by a police officer as and when required.

(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.

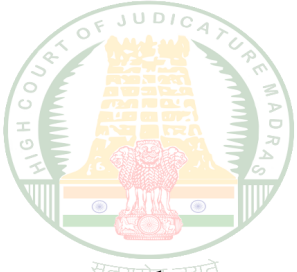
(vi) The petitioner shall also not, directly or indirectly, cause any threat to the witnesses and shall not tamper the evidence.

(vii) The petitioner shall not leave India without the previous permission of the Court.

(viii) The petitioner shall furnish his residential address and mobile number to the concerned Magistrate.

(ix) On breach of any of the aforementioned conditions, the learned Judicial Magistrate or Trial Judge, as the case may be, is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by them 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



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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.

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To

1.The I Additional District Judge for NDPS Act,
Madurai.

2.The Inspector of Police,
Appanthirupathy Police Station,
Madurai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
CRL.OP(MD). No.5553 of 2025
22.04.2025

BV(27/05/2025) 7P/ 4C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.