

Crl.O.P(MD).No.5853 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 24.07.2025

Pronounced on : 29.08.2025

PRESENT

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.O.P(MD).No.5853 of 2025

Mohankumar
S/o.Perumal

... Petitioner/Accused No.4

Vs.

The State rep. by
The Inspector of Police,
NIB – CID Trichy Unit,
Trichy.
(Crime No.4 of 2024)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, to enlarge the petitioner/4th accused on bail in C.C.No.122 of 2024 pending on the file of the Additional District Judge for EC and NDPS Act Cases, Pudukottai.

For Petitioner : Mr.S.Kasirajan
For Respondent : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)



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ORDER

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The petitioner seeks bail for the alleged offences U/s.8(c), 20(b)(ii)(C), 25 and 29(1) of the NDPS Act in case registered in Crime No.4 of 2024 on the file of the respondent Police Station.

2. The case of the prosecution is that on secret information received by the respondent police that some persons transporting huge quantity of ganja from Andhra Pradesh on 14.02.2024 at 5.00 a.m., the respondent made raid at the occurrence spot in Chennai to Trichy National Highway, where two accused in a two wheeler, other two accused in a lorry were coming in a suspect manner, so they intercepted the lorry and found 140 kgs of ganja in a secret chamber of top cabin of vehicle and recovered from them. Hence, the case.

3. The learned counsel for the petitioner has submitted that the petitioner is arrayed as Accused No.4. The alleged seizure of ganja is from the six-wheeled truck and the said truck is not belonged to the petitioner. He is only the cleaner of the truck. The petitioner was not responsible for possession and the alleged trafficking of contraband. There is no overtact against the petitioner. As per the contents of FIR, the petitioner has no nexus or



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connection with the co-accused A1, A2 and A3, who have allegedly transported the contraband. In the counter, the respondent police stated that all four accused were arrested with contraband, in fact, there is no seizure of contraband from this petitioner. The respondent police filed the charge sheet after completing the investigation and the case was taken on file as C.C.No.122 of 2024 by the Special Court for DNPS Act Cases, Pudukottai. So, there is no question of tampering of evidence. The petitioner has been falsely implicated in this case. The petitioner will not commit any offence. The petitioner has no previous cases. The petitioner is in custody from 14.02.2024 for the past 1 ½ years, hence, the petitioner may be granted bail and relied on the citation reported in **2023 Live Law (SC) 352 (Ritu Chhabaria vs. Union of India & Ors.)** and **2024 SCC Online SC 220 (Naeem Ahmed Naim Ahmad vs. Govt. of NCT of Delhi)** and the order of the Hon'ble Supreme Court passed in **SLP (Crl.) No(s).5769/2022, dated 01.08.2022.**

4. The learned Government Advocate (Crl.side) for the respondent filed a counter and objected to grant bail. He would further submit that on secret information of illegal transport of huge quantity of ganja, the respondent police team inspected the vehicle. On seeing the police, two accused in the truck and



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two accused in two wheeler trying to escape, but they were surrounded and on enquiry, the illegal possession of 140 kg of ganja was found on illegal transit. They confessed that the contraband was purchased from Andhra Pradesh and used the lorry for transporting the contraband. The petitioner/Accused No.4, who is having five previous cases, including NDPS Act Case of this nature in Crime No.125 of 2022 of Muthaiyapuram Police Station, Tuticorin, hence, the petitioner has not made out to discharge the rigor imposed U/s.37 of the NDPS Act. The mobile phones were also seized. The tower location of this petitioner matched with the occurrence spot and also CDR details prima facie substantiate the petitioner's involvement in this case. On receipt of secret information, the Investigating Officer immediately informed to higher official and also recorded in the general diary proceedings. So, there is no lapse on the part of the investigating agency. The petitioner has not mentioned any motive for foisting a false case. The petitioner was arrested along with commercial quantity of 140 kgs of ganja at the occurrence place. The petitioner is also said to be the cleaner of the truck, so he might have definite knowledge about the illegal transit of contraband in hidden place of the vehicle. Though the final report is filed and taken on file as C.C.No.122 of 2024, the respondent police is taking hectic steps for further investigation and additional accused might be included



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in the additional report. So, if the petitioner is released on bail, he would tamper with the evidence. Therefore, the petition may be dismissed.

5. Heard and perused the available records. It is seen from the records that the petitioner/Accused No.4, who was working as cleaner in the six wheeler truck, in which commercial quantity of 140 kgs of contraband was transporting in a secret chamber of the top cabin and the same was seized by the respondent police. The petitioner seeks bail on the ground that he was not in possession of ganja and he was not aware of the same and also the co-accused were granted bail by this Court. The respondent police stated that the petitioner has knowledge of the transport of ganja and he also having previous cases and filed the list of previous cases.

6. The Hon'ble Supreme Court held in a catena orders relating to bail matters under the NDPS Act that

"no person accused of an offence involving commercial quantity shall be released on bail unless the twin conditions laid down therein are satisfied, namely, (i) the public prosecutor has been given an opportunity to oppose the bail application; and (ii) the court is satisfied that there



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are reasonable grounds for believing that he is not guilty of such an offence and that he is not likely to commit any such offence while on bail. "

Moreover, while considering bail plea in case of NDPS Act cases, the Hon'ble Supreme Court held in catena of verdicts that as per provisions of Section 37 of the NDPS Act, the Court would have to record a satisfaction that there are grounds for believing that the accused is not guilty of the offence alleged and that he is not likely to commit any offence while on bail.

7. The provision of Section 37 of the NDPS Act is as follows:-

“37. Offences to be cognizable and non bailable.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for [offences under Section 19 or Section 24 or Section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of



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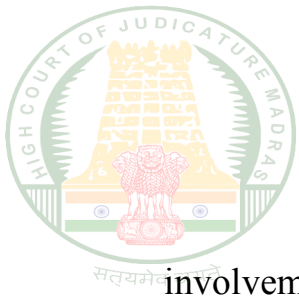
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such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974), or any other law for the time being in force on granting of bail] ”

8. The Hon'ble Supreme Court in its order reported in **2024 INSC 114, S.L.P. (Crl.)No.8137 of 2022 (State vs. B.Ramu), decided on 12.02.2024**, has also held that in case of recovery of such a huge quantity of narcotic substance, the Courts should be slow in granting even regular bail to the accused.

9. The petitioner is also having previous cases of this nature of crime and therefore, it is on record that the petitioner has been involved in similar crimes in the past. The Hon'ble Supreme Court in **Union of India Vs Md. Nawaz Khan** reported in **AIR 2021 SC 447**, reiterated the decision taken in **Rattan Mallik case (2009 AIR SCW 3648)** and held that the absence of possession of the contraband on the person of the accused does not absolve it of the level of scrutiny required under Section 37(1)(b)(ii) of the NDPS Act. From the perusal of the evidences, collected during the investigation so far, *prima facie*, the



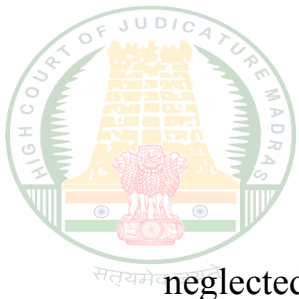
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involvement of the accused in the present case cannot be brushed aside at this stage. No reason is found to falsely implicate the petitioner/accused.

10. In Criminal Appeal No(s).**154 -157 of 2020** in the case of **State of Kerala Vs. Rajesh and Others**, the Hon'ble Supreme Court has held on 24.01.2020 that the expression "reasonable grounds" means something more than prima-facie grounds, and (ii) that the person is not likely to commit any offence while on bail. It is the mandate of the legislature which is required to be followed. The non-obstante clause with which this Section starts should be given its due meaning, and clearly it is intended to restrict the powers to grant bail. To check the menace of dangerous drugs and psychotropic substances flooding the market, the Parliament has provided that the person accused of the offences under the Act should not be released on bail during the trial unless the mandatory conditions provided under Section 37 of the Act, 1985, are satisfied.

11. It is seen from available records that the petitioner is cleaner in the alleged six wheeler truck and commercial quantity of 140 kgs of ganja was recovered from the secret chamber of the top cabin from it, so the respondent's case that the petitioner might have knowledge of contraband cannot be

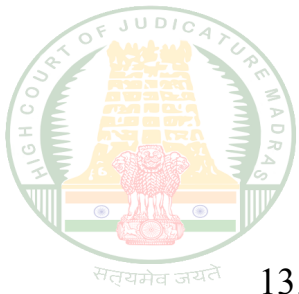


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neglected in toto. Being a cleaner of lorry, he might have known about the transport of goods. In the recent case of **Union of India Vs Md. Nawaz Khan reported in AIR 2021 SC 447**, which is a case where contraband was concealed in a bag and it was held by the Supreme Court that the factum of absence of possession of contraband by the accused in itself cannot be the sole ground for grant of bail.

12. In Criminal Appeal No(s).154 - 157 of 2020 (Supra), the Hon'ble Supreme Court has held that liberal approach in the matter of bail under the NDPS Act is uncalled for. Therefore, it is quite clear that an order of bail cannot be granted in an arbitrary or fanciful manner. The further claim of long period of incarceration is concerned, a ratio decidendi of the judgment of the Hon'ble Apex Court in the case of **Anil Kumar Yadav Vs. State (N.C.T.) of Delhi and Another** reported in **2018(1) CCSC 117** is that in serious crimes, the mere fact that the accused is in custody for more than one year may not be a relevant consideration to release the accused on bail. And also, the release of the co-accused would not entitle the petitioner for consideration of bail.



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13. It is settled position that each and every bail petition under the NDPS Act should be dealt with independently. The citation relied on by the petitioner's side relates to default bail and also appeal against conviction of the accused, but the petition is not filed for default bail, so the citations are not applicable to the facts and circumstances of this case. Therefore, there is no good ground to release the petitioner/accused on bail at this stage. All the contentions, relying on citations, raised by the learned counsel for the petitioner pertain to the merits of the case and the same cannot be considered while considering the application for grant of bail. Therefore, considering the above facts and circumstances of the case and the gravity of the offence, this Court is not inclined to grant bail at this stage.

14. In the result, this Criminal Original Petition is dismissed.

29.08.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD



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To

- 1.The Additional District Judge for EC and NDPS Act Cases,
Pudukottai.
- 2.The Inspector of Police,
NIB – CID Trichy Unit,
Trichy.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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