

CrI.O.P(MD).No.6824 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 18.08.2025

Pronounced on : 17.09.2025

PRESENT

THE HONOURABLE MR.JUSTICE P.VADAMALAI

CrI.O.P(MD)No.6824 of 2025

Nambu
S/o.Bose

... Petitioner/Accused No.2

Vs.

The State of Tamil Nadu rep. by
The Inspector of Police,
Mandapam Police Station,
Ramanathapuram District.
(Crime No.16 of 2025)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, to
enlarge the petitioner on bail in Crime No.16 of 2025 on the file of the
respondent police.

For Petitioner	: Mr.C.Senthil Murugan
For Respondent	: Mr.B.Thanga Aravindh
	Government Advocate (CrI.side)



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ORDER

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The petitioner seeks bail for the alleged offences U/s.8(c) r/w 21(C) and 25 of the NDPS Act in Crime No.16 of 2025 on the file of the respondent police.

2. The case of the prosecution is that on secret information that there was smuggling of ganja from Sri Lanka, the respondent police team conducted raid on 19.02.2025 at about 08.00 hours near Velavankudiyiruppu, Vethalai Coastal area, the respondent police stopped the persons, who came in two wheeler bearing registration number TN 65 BA 1249 and TN 65 BY 4086 and found possession of 25 kg of contraband for illegal transport to Sri Lanka through a boat bearing registration number TN 11 MO 1189. The respondent police arrested the petitioner and Accused No.1/Pandi on the spot and sent the arrested accused to judicial custody.

3. The learned counsel for the petitioner has submitted that the petitioner is arrayed as Accused No.2. The petitioner gave a lift to Accused No.3 on good faith, who asked for a lift on the occurrence day. The petitioner did not have any prior contact with Accused No.3. The petitioner has not committed any



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offence as alleged. The petitioner has been falsely implicated upon the alleged confession of Accused No.3, which is inadmissible U/s.25 of the Indian Evidence Act. The petitioner has no previous case and he is in custody for the past 180 days and the respondent police filed the charge sheet. The petitioner is ready to abide any condition imposed by this Court.

4. The learned Government Advocate (Crl.side) appearing for the respondent objected the bail. There are three accused, who have been spot arrested as they have in possession of commercial quantity of 25 kg ganja. 10 kg of ganja was recovered from the first accused and 15 kgs of ganja was recovered from this petitioner. The petitioner has to satisfy the requirement contemplated U/s.37 of the NDPS Act, but he failed to satisfy. The petitioner is having 7 previous cases out of which 4 cases have already been disposed of and three cases are pending. If the petitioner is released on bail, he would continue the same crime and also tamper with the evidence. Hence, the petition for bail may be dismissed.

5. Heard and perused the available records. It is seen from the records that the petitioner is arrayed as Accused No.2. The prosecution alleged that



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there are totally three accused and at the time of occurrence, the petitioner along with co-accused were arrested with illegal possession of 25 kg ganja, which was subject to transport to Sri Lanka through the Boat of Accused No.3. The petitioner is alleged to have been involved in trafficking the commercial quantity of ganja. The Hon'ble Supreme Court held in a catena of 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 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. "

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



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“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;

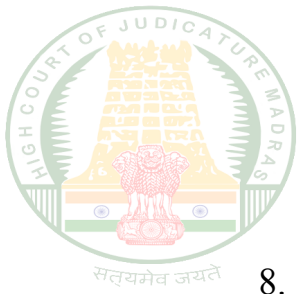
(b) no person accused of an offence punishable for [offences under Section 19 or Section 24 or Section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(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 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] ”

7. 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.



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8. In this case, the petitioner states that no contraband was recovered from the petitioner. It is asserted by the Hon'ble Supreme Court in several cases that finding of the absence of possession of the contraband on the person of the accused does not absolve him of the level of scrutiny required under Section 37(1)(b)(ii) of the NDPS Act. The petitioner was arrested on the spot with collective possession of commercial quantity of contraband. From the perusal of the evidences, collected during the investigation so far, *prima facie*, the 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.

9. 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



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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.

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.

10. Of course, charge sheet has been laid. But, a ratio decidendi of the judgment of the Hon'ble Apex Court in **Anil Kumar Yadav Vs. State (N.C.T.) of Delhi and another, 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. Moreover, in the recent case of **Union of India Vs Md. Nawaz Khan** reported in **AIR 2021 SC 447**, it was held by the Hon'ble Supreme Court that

"20. Based on the above precedent, the test which the High Court and this Court are required to apply while granting bail is whether there are reasonable grounds to believe that the accused has not committed an offence and whether he is likely to commit any offence while on bail. Given the seriousness of offences punishable under the NDPS Act and in order to



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curb the menace of drug-trafficking in the country, stringent parameters for the grant of bail under the NDPS Act have been prescribed."

11. Therefore, it is quite clear that an order of bail cannot be granted in an arbitrary or fanciful manner. Since the accused was arrested on the spot with possession of collective commercial quantity of contraband, there is no reason to falsely implicate the petitioner/accused. All the contentions 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. The petitioner has not satisfied the twin conditions as per Section 37(1)(b)(ii) of NDPS Act. 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.

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

17.09.2025

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



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To

- 1.The Inspector of Police,
Mandapam Police Station,
Ramanathapuram District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Crl.O.P(MD)No.6824 of 2025

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