

Crl.O.P(MD).No.8482 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 21.07.2025

Pronounced on : 29.08.2025

PRESENT

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.O.P(MD).No.8482 of 2025

Nallarasu
S/o.Sambath

...Petitioner/Accused No.3

Vs.

The State rep.by
The Inspector of Police,
Kottampatti Police Station,
Madurai District.
(Crime No.11 of 2025)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, to release the petitioner on bail in connection with Crime No.11 of 2025 on the file of the respondent police.

For Petitioner	: Mr.K.Mahendran
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) r/w 20(b)(ii) (C), and 29(1) of the NDPS Act in Crime No.11 of 2025 on the file of the respondent police.

2. The case of the prosecution is that on secret information on 17.01.2025 at 3.00 p.m., the respondent police party had surveillance near Mottaimalai of Karunkalakudi - Kambur road, the petitioner and others tried to escape and they were caught by the respondent police and on enquiry they were found possession of 22.950 kg of ganja.

3. The learned counsel for the petitioner has submitted that the petitioner is arrayed as Accused No.3 and he moved bail before the Principal Special Court for Trial of NDPS Act Cases, Madurai, in Crl.M.P.No.974 of 2025 and that petition was dismissed on the ground that the petitioner has three previous cases. In fact, the said previous cases are not in similar nature of this case and also the petitioner obtained bail in those cases. The prosecution alleged that all accused have in joint possession of 22.950 kg of ganja. The petitioner is alleged to have possessed 4.950 kg of ganja and so it is not commercial



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quantity. There is no conspiracy between the accused. The respondent has not followed the guidelines of the Hon'ble Supreme Court. Therefore, the provisions of Sections 37 and 29 of the NDPS Act will not be attracted against the petitioner. The investigation has been completed, and the charge sheet has also been filed and the same has been taken on cognizance as C.C.No.239 of 2025 on the file of the Principal Special Court for EC and NDPS Act Cases, Madurai. So, there is no question of tampering with evidence. The petitioner is in custody from 18.01.2025 for the past 222 days. The petitioner is ready to abide any condition and so he may be granted bail. The learned counsel relied on the decision of this Court in **CrI.O.P.No.25771 of 2023, dated 07.02.2024 (Raju vs. The State represented by The Inspector of Police, Tiruvallur District).**

4. The learned Government Advocate (CrI.side) for the respondent filed a counter and objected to grant bail. There are four accused, who have been spot arrested as they have possession of commercial quantity of 22.950 kg of ganja. The petitioner is Accused No.3 and from him, 4.950 kg of contraband was recovered and from A1, 6 kg, from A2, 4 kg and from A4, 8 kg contraband were recovered. Along with contraband, four cell phones were also recovered.



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The petitioner has three previous cases and the petitioner failed to satisfy the requirement contemplated U/s.37 of the NDPS Act. If the petitioner is released on bail, he would continue the same crime and also tamper with the evidences, 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 A3. The prosecution alleged that there are totally four accused and at the time of the occurrence, all the accused were found in possession of 22.950 kg of ganja. The petitioner is in judicial custody from 18.01.2025. The respondent police filed the charge sheet after completion of investigation and now the case is pending as C.C.No.239 of 2025 on the file of the Principal Special Court for EC and NDPS Act Cases, Madurai. The petitioner is alleged to have involved in trafficking the commercial quantity of ganja. The petitioner has not denied that he has previous cases. 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



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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:-

“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,



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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. (CrI.)No.8137 of 2022 (State vs. B.Ramu), decided on 12.02.2024**, has also held 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.

8. In this case, the petitioner states that he has been arrested on the spot with possession of contraband. The petitioner is also having 3 previous cases. Therefore, it is on record that the petitioner has been involved in crimes in the past and that cases are pending against him. The petitioner has further argued that the respondent police has not followed the guidelines. That would be inappropriate to discuss the evidence in depth at this stage because it is likely to influence the trial of the accused. But, from the perusal of the evidences,

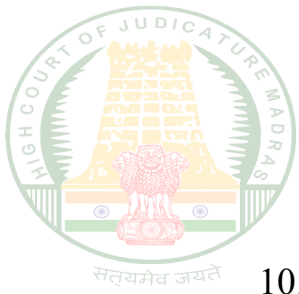


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collected during the investigation so far, *prima facie*, the involvement of the accused in the present case cannot be brushed aside at this stage. No reason is found to falsely implicate the petitioner/accused.

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 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.



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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 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 good ground to release the petitioner/accused on bail at this stage.



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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. 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.

29.08.2025

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

To

- 1.The Inspector of Police,
Kottampatti Police Station,
Madurai 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
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