



Crl.O.P(MD)No.8581 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 11.07.2025

Pronounced on : 07.08.2025

PRESENT

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.O.P(MD).Nos.8581 and 8590 of 2025

Crl.O.P(MD)No.8581 of 2025

Sheik Mahabu Subhani @ Sivani

... Petitioner/ Accused No.5

Vs.

The State of Tamil Nadu rep. by
The Inspector of Police,
Devadanapatti Police Station,
Theni - 625 602
(In Crime No.430 of 2024)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, 2023, to enlarge the petitioner on bail in Crime Nos.430 of 2024 on the file of the respondent police.

Crl.O.P(MD)No.8590 of 2025

Sheik Mahabu Subhani @ Sivani

... Petitioner/ Accused No.6

Vs.

The State of Tamil Nadu rep. by
The Inspector of Police,
Gudalur North Police Station,
Theni - 625 602
(In Crime No.252 of 2024)

... Respondent/Complainant



Crl.O.P(MD)No.8581 of 2025

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, 2023, to enlarge the petitioner on bail in Crime No.252 of 2024 on the file of the respondent police.

For Petitioner : Mr.A.Vignesh
(in both Crl.OPs)

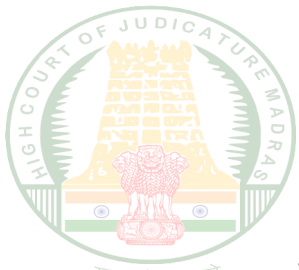
For Respondent : Mr.B.Thanga Aravindh
(in both Crl.OPs) Government Advocate (Crl.side)

COMMON ORDER

The petitioner seeks bail in Crl.O.P(MD)No.8581 of 2025 for the alleged offences U/s.8(c), 20(b)(ii)(C), 25 and 29(1) of the NDPS Act in the case registered in Crime No.430 of 2024 on the file of the respondent/Devadanapatti Police Station.

2. The petitioner seeks bail in Crl.O.P.(MD)No.8590 of 2025 for the alleged offences U/s.8(c), 20(b)(ii)(C), 25, 27(A) and 29(1) of the NDPS Act in the case registered in Crime No.252 of 2024 on the file of the respondent/Gudalur North Police Station.

3. The case of the prosecution in Crl.O.P.(MD)No.8590 of 2025 is that on 17.12.2024 at 10.40 p.m near PSC Theatre Bypass, Cumbum-Kumuli main road, Ertiga car bearing registration number TN 58 BW 9103 was intercepted by the respondent police, in which A1 to A4 were in possession of 22.725 kg ganja and the



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same was seized and they were arrested. A1 to A4 gave confession statement that the said ganja was purchased from Andhrapradesh through the petitioner with assistance of A5/Karthik for distribution to Kerala. The mobile number and transaction of money through PhonePe and other applications linked the petitioner and so, the petitioner was arrested on 24.02.2025.

3.1. The case of the prosecution in Crl.O.P.(MD) No.8581 of 2025 is that on 21.12.2024 at 9.00 a.m., the respondent police conducted raid of vehicles in Cumbum-Uthamapalayam main road, in this operation the respondent police intercepted vehicle bearing number TN 10 4050 which was used by the co-accused for illegal smuggling of commercial quantity of ganja. Coaccused gave confession statement that the said ganja was purchased from Andhrapradesh through the petitioner with assistance of Accused No.4/Ravikumar for distribution to Kerala. The mobile number transaction linked the petitioner and so, the petitioner was arrested on 06.03.2025 in this case.

4. The learned counsel for the petitioner in both cases has submitted that the petitioner is arrayed as Accused No.5 in Crl.O.P(MD)No.8581 of 2025 and Accused No.6 in Crl.O.P(MD)No.8590 of 2025 only on the basis of the alleged confession statement of co-accused based on the mobile number. In fact, the alleged mobile number is not belonged to the petitioner. There is no nexus between this petitioner



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with Accused No.1 and other co-accused. The petitioner is a diabetic patient and his toe from the right leg has been amputated in the Government Rajaji Hospital, Madurai. The petitioner is in custody for the past five months from 24.02.2025. The petitioner is the only breadwinner of his family, consisting of two minor children who are studying 6th and 3rd standard and the petitioner needs treatment from private hospital. He would further submit that the petitioner has not committed any offence as alleged by the prosecution and he is ready to abide by any condition imposed by this Court. The petitioner has further filed photos showing his ailment. The learned counsel also submitted that the petitioner is arrayed as accused only on the basis of the alleged confession statement of the co-accused and his identity is not firm, hence, the petitioner may be granted bail and relied on the order passed by this Court reported in 2022 SCC Online Mad.3421 (Sathiyamoorthy vs. State rep. by the Inspector of Police) and 2022 SCC Online Mad 5552 (Maran vs. State through the Inspector of Police).

5. The learned Government Advocate (Crl.side) appearing for the respondents police filed a counter and objected the bail. He would further submit that the involvement of the accused has been identified through mobile number as well as the transactions by way of PhonePe. After strenuous efforts, the Investigating Agency traced out the location of the petitioner in other State and arrested him. The



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collected materials revealed that the source of ganja in these cases was only from the petitioner. The statement of co-accused U/s.57 of the Act is sufficient. The call details of the mobile phones and the PhonePe app clearly linked the petitioner. In Government Rajaji Hospital, Madurai, the petitioner has been given best treatment, the physical condition of the petitioner is monitored and he is now better than earlier, the part amputation of the toe has fully cured and he has filed a photo to substantiate the same. The petitioner is the source for procuring of contraband the seized quantity in this case is a commercial quantity. If the petitioner is granted bail, he may abscond and the investigation would be affected. Hence, he strongly objected to grant bail.

6. Heard and perused the available records. It is seen from the records that the petitioner has been identified through mobile links and PhonePe links by which money transactions were made between the accused. In the citations relied on by the petitioner's counsel is not applicable to the facts of the case because in those cases the identity of persons therein was come to light only by confession statement, but in the case on hand, in addition to confession statement there is prima facie materials of linkage of mobile numbers and PhonePe app money transactions. Even though the petitioner seeks treatment from private hospital, the submission of the respondent's counsel along with present photos and also from the report sent by the



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Dean of Government Rajaji Hospital, Madurai, substantiates the present health condition of the petitioner is good than as seen from the photos produced by the petitioner. The seized ganja in both cases is a commercial quantity. The petitioner's contention that he has been falsely implicated in this case on the statement of the co-accused and the mobile phone is not belonged to him would be decided only after trial. At this stage, there are prima facie materials available against the petitioner. In case of commercial quantity, the petitioner has to satisfy the ingredients of Section 37 of the NDPS Act. On perusal of the records available, this Court is not satisfied. Therefore, considering the facts and circumstances, this Court is not inclined to grant bail to the petitioner.

7. Hence, these Criminal Original Petitions are dismissed.

sd/-
07/08/2025

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/08/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

vsd

To

1.The Superintendent, Central Prison, Madurai.



Crl.O.P(MD)No.8581 of 2025

2.The Inspector of Police,
Devadanapatti Police Station, Theni – 625 602

3.The Inspector of Police,
Gudalur North Police Station, Theni – 625 602.

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

+2 CC to M/s.A.VIGNESH, Advocate (SR-8565[I] dated 07/08/2025)

ORDER
IN
CRL OP(MD) No.8581 of 2025
Date :07/08/2025

SBN/13.08.2025 7P/7C

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