

CRL OP(MD)Nos.8961, 10735 and 9352 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 31.07.2025

Pronounced on : 26.08.2025

PRESENT

The HONOURABLE MR. JUSTICE P. VADAMALAI

CRL OP(MD)Nos.8961, 10735 and 9352 of 2025

Arul Pandi ...Petitioner/ Accused No.5
in Crl.O.P(MD)No.8961 of 2025

Vignesh ...Petitioner/ Accused No.3
in Crl.O.P(MD)No.10735 of 2025

G.Balamurugan ...Petitioner/ Accused No.4
in Crl.O.P(MD)No.9352 of 2025

Vs.

State of Tamil Nadu
Rep by the Inspector of Police,
Thirunagar Police Station,
Madurai District.
(Crime No.176 of 2025)

... Respondent/Complainant
in all Crl.O.Ps

For Petitioner
in Crl.O.P(MD)No.8961/2025 : Mr.S.Muthu Malai Raja
Advocate.

For Petitioner
in Crl.O.P(MD)No.10735/2025 : Mr.R.Balamuruganantham
Advocate.



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For Petitioner
in CrI.O.P(MD)No.9352/2025 : Mr.J.Vijayaraja
Advocate.

For Respondent : Mr.B.Thanga Aravindh
in all CrI.O.Ps. Government Advocate (CrI.Side)

PETITIONS FOR BAIL Under Sec.483 of BNSS

COMMON PRAYER :- For Bail in Crime No.176 of 2025 on the file of the respondent police.

COMMON ORDER : The Court made the following order :-

The petitioners/Accused, who were arrested and remanded to judicial custody on 19.03.2025 for the offences punishable under Sections 8(c), 20(b)(ii)(C), and 25 and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.176 of 2025 on the file of the respondent police, seek bail.

2. The case of the prosecution is that based on secret information, on 19.03.2025 at about 07.15 hours, the defacto complainant/Sub Inspector of Police, along with his team have gone to Koothiyarkundu kanmai near Monika Avenue. On seeing police party, six persons trying to flee away from the place. Police party caught hold A1 to A3 and seized two cars and recovered 22 kg of ganja from A1, 1 kg of ganja and Rs.5,00,000/- from A2 and 1 kg of ganja from



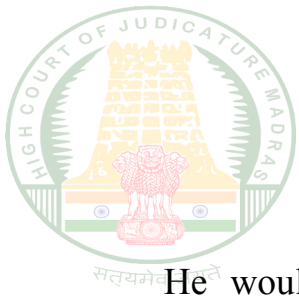
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A3 and the respondent police have arrested A1 to A3 and thereafter, based on the confession of arrested accused, all other accused were arrested and remanded to judicial custody on 19.03.2025. Hence, the complaint.

3. The learned counsel for the petitioner/Accused No.5 in CrI.O.P(MD)No.8961 of 2025 would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He would further submit that no contraband was recovered from this petitioner and the contraband was recovered only from A1 and A2. He would further submit that the petitioner is ready to abide by any stringent conditions that may be imposed by this Court. He would further submit that the petitioner is in judicial custody from 19.03.2025. Hence, he seeks bail.

4. The learned counsel for the petitioner/Accused No.3 in CrI.O.P(MD)No.10735 of 2025 would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He would further submit that the petitioner has possessed 1 kg of Ganja and it is not a commercial quantity. He would further submit that the petitioner is ready to abide by any stringent conditions that may be imposed by this Court.

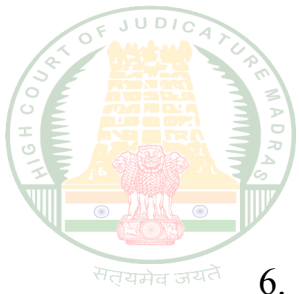


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He would further submit that the petitioner is in judicial custody from 19.03.2025. Hence, he seeks bail.

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5. The learned counsel for the petitioner/Accused No.4 in Crl.O.P(MD)No.9352 of 2025 would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He would further submit that no contraband was recovered from this petitioner and the petitioner was taken from home on 17.03.2025, thereafter, he was falsely implicated in the present case on 19.03.2025 to that effect, he informed the same before the learned Judicial Magistrate during his remand and the same was reflected in the remand report dated 19.03.2025. Further, on 18.03.2025 the petitioner's mother namely Gomathi, wife of Gnanavel has also made representation to the Commissioner of Police, Madurai City about illegal custody of the petitioner. He would further submit that there is no previous case pending against the petitioner, and the petitioner is ready to abide by any stringent conditions that may be imposed by this Court, and the petitioner is in judicial custody from 19.03.2025. Hence, he seeks bail.



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6. The learned Government Advocate (Criminal Side) appearing for the respondent police would submit that there are totally 6 accused persons involved in this case and the petitioners are arrayed as A5, A3 and A4 respectively. Based on the confession of the co-accused, the petitioners were arrested and remanded to judicial custody. Two previous cases are pending against Accused No.5 and 3 previous cases are pending against Accused No.3. He would further submit that the quantity of contraband seized is a commercial quantity and the petitioners are not entitled to bail and they have not made out a case to satisfy the requirements under Section 37 of NDPS Act. Further, the investigation has been completed and the charge sheet has also been filed through E-filing. He would further submit that the petitioners have purchased the Ganja and re-sale. If the petitioners are released on bail, they will abscond, commit similar offence and cause threat to the witnesses. Hence, he strongly opposed for grant of bail to the petitioners.

7. Heard and perused the available records. It is seen from the records that the petitioners are arrayed A5, A3 and A4 respectively. It is alleged that the petitioners along with co-accused were present at the occurrence spot for trafficking the commercial quantity of ganja and they were found in illegal



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possession of totally 24 kg of ganja and Rs.5,00,000/- and the respondent police seized the same. The respondent police stated that the petitioners have previous cases and the same were not denied by the petitioners. The learned counsel for the petitioners/A4 and A5 argued that there was no seizure of ganja from these petitioners. The learned counsel for petitioner/A4 submitted that the petitioner/A4 was taken on illegal custody by the respondent police.

8. 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. "

9. 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



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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),—

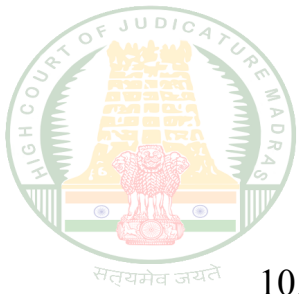
(a) every offence punishable under this Act shall be cognizable;

(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, 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]”

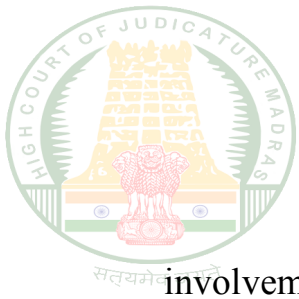


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10. The Hon'ble Supreme Court in its order reported in **2024 INSC 114, S.L.P. (Crl.)No.8137 of 2022 (State vs. B.Ramu), decided on 12.02.2024**, has also held that in case of recovery of such a huge quantity of narcotic substance, the Courts should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

11. In this case, the petitioners are arrested at the occurrence spot itself and also they are having bad antecedents. Therefore, it is on record that the petitioners have been involved in other offences in the past and that several cases are pending against them. The petitioner/A4 has further submitted that he was taken into illegal custody even prior to the date of the alleged arrest. However, it would not be appropriate to discuss the same in depth at this stage because it is likely to influence the trial of the accused and it would be decided by the trial Court after adducing both side evidence. But, from the perusal of the evidences, collected during the investigation so far, *prima facie*, the



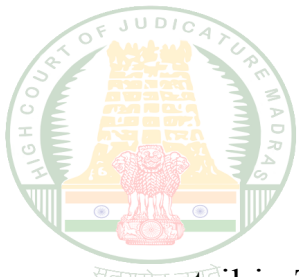
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involvement of the accused in the present case cannot be brushed aside at this stage. No reason is found to falsely implicate the petitioner/accused.

12. 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 NDPS Act, 1985, are satisfied.

13. It is seen from available records that from the petitioners and co-accused, commercial quantity of contraband and Rs.5,00,000/- were seized and also it is alleged that the accused procured ganja from Odissa for sale in



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retail in Tamilnadu and other places. 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. 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. So, long period of incarceration relating to the case of the NDPS Act is not a ground for bail.

14. The respondent police filed a charge sheet against the accused. There is no good ground to release the petitioners/accused on bail at this stage. All the contentions raised by the learned counsel for the petitioners 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 to the petitioners at this stage.



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15. In the result, these Criminal Original Petitions are dismissed.

(P V M J)
26.08.2025

msrm

To

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



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P. VADAMALAI, J.

msrm

Pre - Delivery Order made in
CRL OP(MD)Nos.8961, 10735 and 9352 of 2025

Date :26.08.2025