

Crl.O.P(MD).No.9586 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 22.07.2025

Pronounced on : 29.08.2025

PRESENT

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.O.P(MD).No.9586 of 2025

Selvapandi @ Karuvayan
S/o.Uthayasuriyan

...Petitioner/Accused No.3

Vs.

The State of Tamil Nadu rep.by
The Inspector of Police,
Karimedu Police Station,
Madurai City.
(Crime No.481 of 2024)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, 2023, to release the petitioner on bail in connection with Crime No.481 of 2024 on the file of the respondent police.

For Petitioner : M/s.C.Kannan
For Respondent : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)



Crl.O.P(MD).No.9586 of 2025

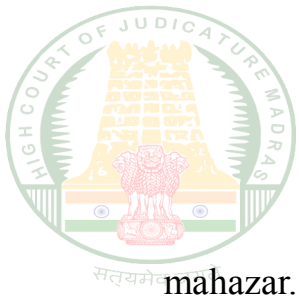
ORDER

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The petitioner seeks bail for the alleged offences U/s.8(c) r/w 20(b)(ii)(C), 25, and 29(1) of the NDPS Act in Crime No.481 of 2024 on the file of the respondent police.

2. The case of the prosecution is that on secret information, the respondent police team conducted raid on 12.10.2024 at 7.00 p.m., near Madurai by-pass road, beneath Kamarajar Bridge at the southern side of Vaigai river, the petitioner, along with four other accused, were having possession of 24.500 kg of ganja in plastic bag. The respondent police arrested them and also seized an auto bearing registration number TN 59 AF 5784 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petitioner is arrayed as Accused No.3 and his earlier bail petition in Crl.O.P(MD) No.22826 of 2024 was dismissed as withdrawn. This is the second petition seeking for bail. The petitioner is arrayed as A3 on the basis of the alleged confession statement of Accused No.1. There is no recovery of ganja from this petitioner. There is no signature of this petitioner found in the alleged seizure



Crl.O.P(MD).No.9586 of 2025

WEB COPY

mahazar. The petitioner is in judicial custody for the past 320 days and the charge sheet has been filed after completion of investigation and the same was taken on cognizance as C.C.No.73 of 2025 on the file of the II Additional Special Court for Trial of NDPS Act Cases, Madurai. So, there is no question of tampering with evidence by the petitioner. The learned counsel relied on the judgment passed by this Court in **Crl.A.Nos.434 & 457 of 2020** reported in **2023 (1) L.W.(Crl.)No.904**. The petitioner is the only breadwinner of his family. He is ready to abide any condition imposed by this Court.

4. The learned Government Advocate (Crl.side) for the respondent filed a counter and objected the bail. There are five accused, who have been spot arrested as they have possession of commercial quantity of 24.500 kg of ganja. A1 gave a confession statement about the involvement of this petitioner and also all the accused purchased contraband from Andhra Pradesh to sell them for profitable income. The petitioner with other accused were caught red handed with 24.500 kg of ganja, it is established the culpable mental state of the petitioner. Moreover, the petitioner has 10 more previous cases, out of which two cases are similar nature of this offence, the petitioner failed to satisfy the requirement contemplated U/s.37 of the NDPS Act. If the petitioner



Crl.O.P(MD).No.9586 of 2025

is released on bail, he would continue the same crime and also tamper with the evidences, hence, the petition for bail may be dismissed.

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5. Heard and perused the available records. It is seen from the records that the petitioner is arrayed as Accused No.3. The prosecution alleged that there are totally five accused and at the time of the occurrence, all the accused were found in possession of 24.500 kg of ganja. The petitioner's counsel states that there is no recovery from the petitioner. The petitioner has produced a copy of athatchi for recovery of alleged ganja in this case and on perusal of the same, the signature of the petitioner is not found place. These are to be adjudicated only at the time of trial. The petitioner is alleged to have been involved in trafficking a 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 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



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CrI.O.P(MD).No.9586 of 2025

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, 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



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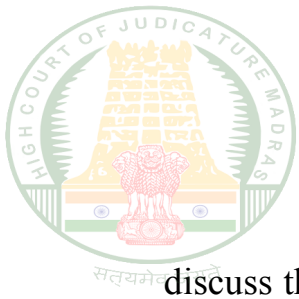
Crl.O.P(MD).No.9586 of 2025

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 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 no contraband was recovered from the petitioner. It is asserted by the Hon'ble Supreme Court in several cases that the 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 a commercial quantity of contraband. The petitioner is also having 11 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 have not following the guidelines. That would be inappropriate to



Crl.O.P(MD).No.9586 of 2025

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discuss the same in depth at this stage because it is likely to influence the trial of the accused. But, 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 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

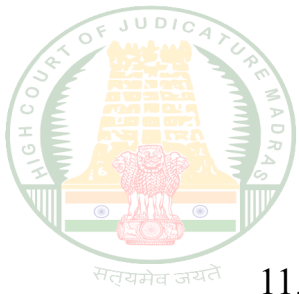


CrI.O.P(MD).No.9586 of 2025

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."



CrI.O.P(MD).No.9586 of 2025

WEB COPY

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. 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's side relied on the judgment reported in **2023-1 Law Weekly (CrI) 904**, which relates to an appeal filed against conviction, this case is pending at the trial stage, so the citation is not applicable in this case. 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



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CrI.O.P(MD).No.9586 of 2025

To

- 1.The Inspector of Police,
Karimedu Police Station,
Madurai City.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P(MD).No.9586 of 2025

P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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