



Crl.O.P(MD).Nos.9460 and 11164 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 23.07.2025

Pronounced on : 08.09.2025

PRESENT

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.O.P(MD).Nos.9460 and 11164 of 2025

Cholaiyammal

...Petitioner/Accused No.2
in Crl.O.P(MD)No.9460 of 2025

Velmurugan

...Petitioner/Accused No.1
in Crl.O.P(MD)No.11164 of 2025

Vs.

The State of Tamil Nadu rep. by
The Inspector of Police,
Vallam Police Station,
Thanjavur District.
(In Crime No.256 of 2024)

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

COMMON PRAYER: Criminal Original Petitions filed under Section 483 of BNSS, 2023, to enlarge the petitioners on bail in Crime No.256 of 2024 on the file of the respondent police.

For Petitioner : Ms.P.Revathi Muthumani
in Crl.O.P(MD)No.9460 of 2025

For Petitioner : Ms.A.Banumathy
in Crl.O.P(MD)No.11164 of 2025



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

COMMON ORDER

The petitioners seeks bail for the alleged offences U/s.8(c) and 20(b)(ii) (C) of the NDPS Act in Crime No.256 of 2024 on the file of the respondent Police Station.

2. The case of the prosecution is that on 18.05.2024 at 7.00 p.m., the respondent police, while inspecting vehicles near Ram Ariyas Hotel in Thanjavur - Trichy bypass ring road, the accused were standing in suspicious manner, on enquiry, they were found in possession of 25.268 kgs of ganja and the same was seized and they were arrested.

3. The learned counsel for the petitioners in both cases have submitted that the petitioner in Crl.O.P.(MD) No.11164 of 2025 is arrayed as Accused No.1 and the petitioner in Crl.O.P.(MD) No.9460 of 2025 is A2. The case has been registered only on statistical purposes. The petitioner/A1 is not having any previous case of similar kind of offence. The petitioners are in custody for the past 467 days. The investigating agency has completed the investigation and



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filed the final report. The case is now pending as C.C.No.19 of 2025 on the file of the Special Court for EC and NDPS Act Cases, Thanjavur. There are no circumstances for tampering evidences. The trial of the case has not commenced so far. The petitioners are ready to abide any condition imposed by this Court. Hence, the petitioners may be granted bail.

4. The learned Government Advocate (Crl.side) for the respondent filed a counter and strongly objected to grant bail. He would further submit that the petitioners have been arrested red-handed. Accused Nos.1 and 2 are living together in a live-in relationship. Accused No.2 is a convicted accused for the offences under the NDPS Act in the State of Andhra Pradesh, who is having past experience, guided the Accused No.1 for procurement, transit and illegal sale of huge quantity of ganja. The petitioners have not satisfied the twin conditions as contemplated under Section 37(1)(b)(ii) of the NDPS Act. Incarceration period is not a ground for bail. Therefore, the petitioners are not entitled for bail. Hence, he strongly objected to grant bail.

5. Heard and perused the available records. It is seen from the records that the petitioners said to have been caught redhanded with commercial



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quantity of ganja and arrested. It is alleged that the petitioners are living in relationship and it is not denied by the petitioners. The prosecution states that Accused No.2 is a convicted person under the provisions of the NDPS Act in Andhra Pradesh State and it is not denied by Accused No.2. The petitioners are alleged to have been involved in trafficking of 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 Hon'ble Supreme Court in its order reported in **2024 INSC 114, S.L.P.**



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((Crl.)No.8137 of 2022 (State Vs. B.Ramu), decided on 12.02.2024, has also

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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.

7. In this case, the petitioners have been arrested on the spot with possession of commercial quantity of ganja. The petitioner/Accused No.2 in Crl.O.P.(MD)No.9460 of 2025 is a convicted person under the NDPS Act. Therefore, it is on record that the petitioners have been involved in crimes in the past. The petitioner states that they have been falsely implicated in this case for statistical purposes. When it is alleged that the petitioners have been arrested with possession of contraband, no reason is found to falsely implicate the petitioners/accused. 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



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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. 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.

8. Of course, charge sheet has been laid and also the petitioners' counsel contend that the petitioners are in custody for the past more 410 days. But, a ratio decidendi of the judgment of 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 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-



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

9. Therefore, it is quite clear that an order of bail cannot be granted in an arbitrary or fanciful manner. Since the accused were arrested on the spot with possession of commercial quantity of contraband, there is no good ground to release the petitioners on bail at this stage. All the other contentions raised by the learned counsel for the applicants pertain to the merits of the case and the same cannot be considered while considering application for bail. Therefore, considering the above facts and circumstances of the case and gravity of the offence, this Court is not inclined to grant bail at this stage.

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

08.09.2025

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



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To

- 1.The Inspector of Police,
Vallam Police Station,
Thanjavur 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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