



Crl.O.P(MD)No.10517 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

RESERVED ON

Crl.O.P(MD)No.10517 of 2025	30.06.2025
Crl.O.P(MD)No.10342 of 2025	11.07.2025

PRONOUNCED ON : 31.07.2025

PRESENT

THE HONOURABLE MR.JUSTICE P.VADAMALAI
Crl.O.P(MD)Nos.10342 and 10517 of 2025

M.Naina Mohamed
S/o.Mohideen Pitchai

... Petitioner/ A2
in Crl.O.P.(MD)No.10342 of 2025

Sasikumar
S/o.Durai Kannu

... Petitioner/ A5
in Crl.O.P.(MD)No.10517 of 2025

Vs.

Union of India through
The Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai in NCB.
(F.No.48/1/12/2023/NCB/MDS)

... Respondent/ Complainant
in Crl.O.P.(MD)No.10342 of 2025

Union of India rep. by
The Intelligence Officer,
Narcotics Control Bureau,
Madurai Sub Zonal,
Madurai District.
(F.No.48/1/12/2023/NCB/MDS)

... Respondent/ Complainant
in Crl.O.P.(MD)No.10517 of 2025



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PRAYER in Crl.O.P(MD)No.10342 of 2025: Criminal Original Petition filed under Section 483 of BNSS Act, 2023, to enlarge the petitioner/Accused No.2 on bail in C.C.No.65 of 2024 on the file of the Special Court for E.C. and NDPS Act Cases at Pudukkottai in F.No.48/1/12/2023/NCB/MDS on the file of the respondent police.

PRAYER in Crl.O.P(MD)No.10517 of 2025: Criminal Original Petition filed under Section 483 of BNSS, 2023, to enlarge the petitioner on bail in C.C.No.65 of 2024 pending on the file of the Special Court for EC and NDPS Act Cases, Pudukkottai in connection with F.No.48/1/12/2023/NCB/MDS on the file of the respondent.

For Petitioner : Mr.I.Kalantaraasik Ahamadu
in Crl.O.P(MD)No.10342 of 2025

For Petitioner : Mr.R.C.Paul Kanagaraj
in Crl.O.P(MD)No.10517 of 2025

For Respondent : Mr.C.Arul Vadivel @ Sekar
Special Public Prosecutor for NCB Cases
in both petitions

COMMON ORDER

The petitioners are the accused in C.C.No.65 of 2024 on the file of the Special Court for EC and NDPS Act cases, Pudukkottai. They are arrayed as Accused No.2 and Accused No.5 in the above said case. They have filed these Criminal Original Petitions to grant bail.



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2. The petitioner in Crl.O.P.(MD).No.10342 of 2025 has filed the third bail application and his bail application was dismissed lastly on 29.04.2025 in Crl.O.P.(MD).No.5333 of 2025.

3. The petitioner in Crl.O.P.(MD).No.10517 of 2025 has filed this third bail application and his bail petition was dismissed lastly on 29.04.2025 in Crl.O.P.(MD) No.2515 of 2025.

4. The respondent arrested and remanded the accused on 17.08.2023 for illegal possession of a huge quantity of ganja, namely 423 kgs. The Petitioner in Crl.O.P.(MD).No.10517 of 2025 and the other accused conspired together and engaged in illegal trafficking of 423 kgs of ganja to Srilanka, which was purchased from Andhra Pradesh and transported in the vehicle bearing registration No.TN-81-E-6961. The department received the information about the illegal trafficking and possession of ganja on 15.08.2023 at 11.15 hours and intercepted the said vehicle on 16.08.2023 at 10.00 hours. The petitioner in Crl.O.P.(MD).No.10517 of 2025, namely, Sasikumar, and Accused No.3/Manikandan, Accused No.4/Jegan carried the ganja in the vehicle and the petitioner in Crl.O.P.(MD).No.10342 of 2025 namely Naina Mohamed and



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Parimaladoss @ Doss/ A1 travelled in another car piloting the said vehicles and they were en route to illegally smuggle the said ganja to Srilanka. The department people apprehended them along with contraband and conducted the investigation and filed the final report before the Special Court, Pudukkottai and the same was taken on file in C.C.No.65 of 2024. The said Parimaladoss @ Doss/ A1 has filed the bail application before this Court in Crl.O.P.(MD).No.5935 of 2024 and the same was dismissed by order dated 30.04.2024. Thereafter, he has preferred an appeal before the Hon'ble Supreme Court. The Hon'ble Supreme Court dismissed the appeal with the following observation:

"We have heard the learned senior counsel for the parties.
We find no reason to interfere with the impugned order.
However, we make it clear that if the trial is not completed within three months, liberty is given to the petitioner to renew the application for bail before the concerned trial Court, in which case the earlier order denying bail will not stand in the petitioner's way".

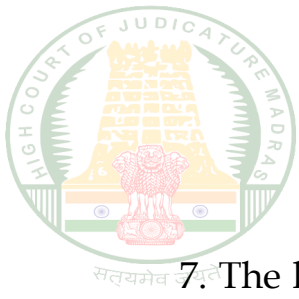
5. Thereafter, the learned trial Judge commenced the trial and examined six witnesses out of eight witnesses. The accused has filed the change of vakalat and filed



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the recall petition under Section 311 of Cr.P.C., and the trial was adjourned. At that time, the said Parimala doss @ Doss, has filed the bail petition in Crl.M.P.No.1395 of 2025 before the learned Additional District and Sessions Judge, Pudukkottai, stating that he is entitled to bail on the account of the non-completion of the trial within the period fixed by the Hon'ble Supreme Court. The learned Judge has accepted the plea and granted bail only on the ground that the trial has not been completed within the stipulated time. There was no discussion on merit and the petitioners have also filed a fresh bail petition on the basis of the said order of the Hon'ble Supreme Court. The learned Judge has dismissed the bail petition stating that the Hon'ble Supreme Court direction was confined only to the Parimala Doss @ Doss. Therefore, the present bail petitions have been filed.

6. The learned counsel for the petitioner in Crl.O.P.(MD)No.10517 of 2025, would submit that a speedy trial is a fundamental right. Once, the Hon'ble Supreme Court issued a direction to complete the trial and there was no completion of the trial within the stipulated time, the petitioner is also entitled to the same relief gotten by Parimaladoss @ Doss in Crl.M.P.No.1395 of 2025 on the principle of doctrine of parity.



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7. The learned counsel would also place reliance on the judgment of S.L.P.(Crl) No.4648 of 2024 in the case of Ankur Chaudhary vs. State of Madhya Pradesh, Crl.O.P.No.2298 of 2025 and Crl.O.P.No.22705 of 2024 and seek the relief of bail on the ground of prolonged incarceration without trial violating their precious fundamental right to liberty conferred under Article 21 of the Constitution of India.

8. The learned counsel also submitted that the accused and Parimaladoss @ Doss are facing the identical allegation and hence, the principle of parity is applicable on the facts and circumstances of the case.

9. The learned counsel for the petitioner in Cr.O.P(MD)No.10342 of 2025, also re-iterated the said submission of the learned counsel for the petitioner in Crl.O.P. (MD)No.10517 of 2025 and seeks bail.

10. The learned Special Public Prosecutor for NCB Cases, appearing for the department, would submit that the department is taking steps to cancel the bail granted against Parimaladoss @ Doss and also the accused have adopted dilatory tactics and prolonged the trial. Totally there are nine witnesses in this case. Out of nine witnesses, as per the direction of the Hon'ble Supreme Court to complete the



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trial, six witnesses have been examined. The accused has filed a change of memo of appearance and also filed the petition under Section 311 of Cr.P.C., to recall the witnesses. Therefore, the trial has not been completed. Due to the intentional tactics adopted by the accused, the trial has been prolonged and the Hon'ble Supreme Court also never issued any mandatory direction to grant bail to the accused if the trial had not been completed within a period of six months. They granted only the liberty to file the application. The same was not properly considered by the learned Sessions Judge in granting bail to Parimala Doss @ Doss. No person can be allowed to take advantage of his own wrong. The trial is in the crucial stage and hence, granting bail would seriously affect the trial. The learned Special Public Prosecutor would also submit that the principle of parity is not applicable and abundant materials are available against the petitioners and the same was considered by this Court in the last bail dismissal order, dated 29.04.2025 and these petitions have been filed without any change of circumstances. Therefore, he seeks to dismiss the bail petitions and also specifically submitted that the principle of parity has no application for the reason that there was no discussion on the merit and in support of his contention, the learned Special Public Prosecutor relied on the precedent reported in 2021 10 SCC 100 in the case of Union of India Through NCB vs. Md. Nawaz Khan.



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11. This Court considered the rival submissions made by the learned counsels appearing on either side and perused the materials available on record and the precedents relied upon by them.

12. There was a serious allegation of illicit trafficking and possession of 423 kgs of ganja and the same was intended to be smuggled to Srilanka. The investigating Agency collected various materials, including call details, tower location of the cell phone used by the petitioners and the other accused to make out prima facie case of the involvement of the accused in the conspiracy. The said aspect was considered by this Court in their last bail petitions in Crl.O.P.(MD).Nos.5333 of 2024 and 2515 of 2025 and the same were dismissed on merits on 29.04.2025. Now, they filed the fresh bail petitions before the learned trial Judge only on the ground that the co-accused, namely, Parimala doss @ Doss, was released on bail on the basis of the judgment of the Hon'ble Supreme Court and seek application of the principle of parity. The learned trial Judge has dismissed the same by valid reasoning that the trial was in a crucial stage and letting the petitioners on bail would seriously affect the trial and the accused themselves filed the application under Section 311 of Cr.P.C., and prolonged the trial. The learned trial Judge also observed that the said order of the Hon'ble Supreme Court is only pertaining to the co-accused Parimala doss @ Doss.



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13. The said reasoning of the learned trial judge deserves merit and there is no ground to interfere with the same. Apart from that, the question of speedy trial has not arisen in this case for the reason that the accused themselves have filed the recall petition, intending to prolong the trial and get bail. The accused themselves delayed the trial and they can not be allowed to take advantage of their own wrong and the duty of the accused is to co-operate to complete the trial as per the direction of the Hon'ble Supreme Court and among the 8 listed witnesses, examination of the six witnesses have already over and only remaining two witnesses have to be examined and considering the huge quantity of ganja and the dismissal of the earlier bail petition on merits and upon considering the material collected by the department during the investigation and without any change of circumstances, filing the petition on the principle of parity is not legally maintainable. It is relevant to refer to paragraph No.86 of the Constitution Bench judgment of the Hon'ble Supreme Court in the case of Abdul Rehman Antulay v. R.S. Nayak, reported in (1992) 1 SCC 225

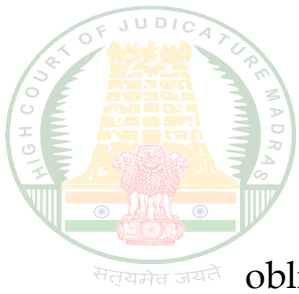
"54.(4) At the same time, one cannot ignore the fact that it is usually the accused who is interested in delaying the proceedings. As is often pointed out, "delay is a known defence tactic". Since the burden of proving the guilt of the



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accused lies upon the prosecution, delay ordinarily prejudices the prosecution. Non-availability of witnesses, disappearance of evidence by lapse of time really work against the interest of the prosecution. Of course, there may be cases where the prosecution, for whatever reason, also delays the proceedings. Therefore, in every case, where the right to speedy trial is alleged to have been infringed, the first question to be put and answered is- who is responsible for the delay? Proceedings taken by either party in good faith, to vindicate their rights and interest, as perceived by them, cannot be treated as delaying tactics nor can the time taken in pursuing such proceedings be counted towards delay.

(5) While determining whether undue delay has occurred (resulting in violation of Right to Speedy Trial) one must have regard to all the attendant circumstances, including nature of offence, number of accused and witnesses, the work-load of the court concerned, prevailing local conditions and so on-what is called, the systemic delays. It is true that it is the



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obligation of the State to ensure a speedy trial and State includes judiciary as well, but a realistic and practical approach should be adopted in such matters instead of a pedantic one."

The judgment in S.L.P.(Crl)No.4648 of 2024 in the case of Ankur Chaudhary vs. State of Madhya Pradesh, relied by the learned counsel for the petitioner in Crl.O.P(MD)No.10517 of 2025 has no application to the present fact of the case for the reason that the said case as per the direction of the Hon'ble Supreme Court, the trial commenced and the panch witnesses have not supported the case of the prosecution and therefore, the Hon'ble Supreme Court considering the incarceration period and there as there was sufficient ground to acquit the accused granted bail. Here, among 8 witnesses, 6 witnesses were examined and the examination of the remaining witnesses was prolonged only at the instance of the accused and all the witnesses supported the case of the prosecution.

14. The other judgment of this Court relied on by the learned counsel Thiru.R.C.Paul Kanagarai, has no application to the present case on the ground that in the said case, the trial has not commenced in spite of the direction and in one case, there was no material available except the confession of the co-accused.



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15. In view of the above discussion, the petitioners have not made out their case to release them on bail under Section 37 of the NDPS Act, as held by the Hon'ble Supreme Court in 2021(10) SCC 100 and 2023 - SCC 346 and the petitioners have not made out any reasonable ground for believing that they are not guilty of offence. On the other hand, the department produced abundant materials to substantiate their allegation, as discussed by this Court in the earlier dismissal order, dated 29.04.2025.

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

sd/-
31/07/2025

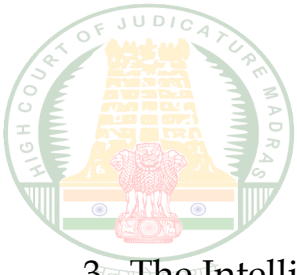
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Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSD

TO

- 1 The Officer Incharge,
District Jail, Pudukkottai.
- 2 The Intelligence Officer,
Narcotics Control Bureau,
Chennai Zonal Unit,
Chennai in NCB.



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3 The Intelligence Officer,
Narcotics Control Bureau,
Madurai Sub Zonal,
Madurai District.

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

ORDER
IN
Crl.O.P(MD)Nos.10342 and
10517 of 2025
Date :31/07/2025

AS/09.09.2025/13P/5C

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