

Crl.O.P(MD)Nos.10032, 6984 and 9528 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 24.07.2025

Pronounced on : 29.08.2025

PRESENT

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.O.P(MD)Nos.10032, 6984 and 9528 of 2025

Rajkumar @ Ezharai Arasu

... Petitioner/Accused No.6
in Crl.O.P(MD)No.10032 of 2025

Athiguru

... Petitioner/Accused No.7
in Crl.O.P(MD)No.6984 of 2025

Ranjith

... Petitioner/Accused No.3
in Crl.O.P(MD)No.9528 of 2025

Vs.

The State of Tamil Nadu rep. by
The Inspector of Police,
Neyveli Thermal Police Station,
Cuddalore District.
(In Crime No.258 of 2024)

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

COMMON PRAYER: Criminal Original Petitions filed under Section 483 of BNSS, to enlarge the petitioners on bail in Crime No.258 of 2024 on the file of the respondent police.



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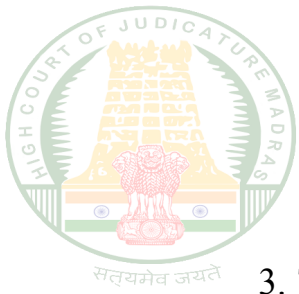
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For Petitioner	: Mr.Krishnasamy Chinnasamy (in Crl.O.P(MD)No.10032 of 2025)
For Petitioner	: Mr.R.Muthukumaran (in Crl.O.P(MD)No.6984 of 2025)
For Petitioner	: Mr.D.Rajaboopathy (in Crl.O.P(MD)No.9528 of 2025)
For Respondent	: Mr.B.Thanga Aravindh Government Advocate (Crl.side) (in All Crl.O.Ps)

COMMON ORDER

The petitioners in respective petitions seek bail for the alleged offences U/s.8(c) r/w 20(b)(ii)(C) of the NDPS Act in Crime No.258 of 2024 on the file of the respondent police.

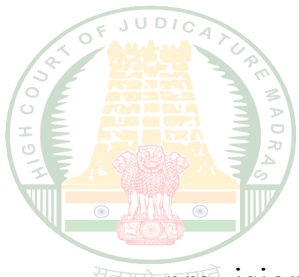
2. The case of the prosecution is that on 07.12.2024 at 14.00 hours, on the basis of the secret information, the respondent police party had surveillance near Veeran Koil of Neyveli, wherein the petitioners along with coaccused were standing suspiciously and on enquiry they were found in possession of 21.250 kgs of ganja.



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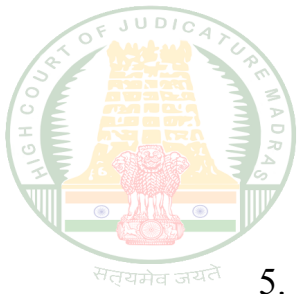
3. The learned counsels for the petitioners submitted that the petitioners are arrayed as A6, A7 and A3 and they moved bail before the Principal Special Court for NDPS Act Cases, Thanjavur and the same were dismissed. The petitioner in Crl.O.P.(MD)No.10032 of 2025 has already moved bail before this Court in Crl.O.P.(MD)No.508 of 2025 and Crl.O.P.(MD)No.4118 of 2025 and those petitions were dismissed on the ground that investigation was pending. Now, investigation has been completed and charge sheet has been laid. The Hon'ble Supreme Court has held in **AIR 2004 SC 4258** that if there is no such reasonable apprehension bail can be granted. Now, there is no reasonable apprehension of tampering evidences since charge sheet has been laid in this case. Moreover, in this case there are seven accused and the accused alleged to have been in possession of 21.250 kg of ganja. There is no recovery of ganja from these petitioners and so it cannot be taken as commercial quantity. At the time of alleged occurrence, the petitioner were in judicial custody in some other case and based on the confession, the petitioners have been falsely implicated in this case for statistic purpose. There is no conspiracy among the accused. The petitioners have no previous case of this nature and in all the alleged previous cases the petitioner obtained bail. The respondent has not followed the guidelines of the Hon'ble Supreme Court. Therefore, the



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provisions of Sections 37 and 29 of the NDPS Act will not be attracted against the petitioner. The investigation completed, charge sheet has been filed and the same has been taken on cognizance as C.C.No.68 of 2025 on the file of the Principal Special Court for EC and NDPS Act Cases, Thanjavur. So, there is no question of tampering of evidence. The petitioners are ready to abide any condition and so they may be granted bail.

4. The learned Government Advocate (Crl.side) for the respondent filed a counter and objected the bail. There are seven accused and on seeing the respondent police party two accused ran away. From rest of the accused/A1 to A5, 21.250 kg of ganja was recovered and they were arrested. A1 gave a confession statement and based on which other accused were also implicated in this case. The petitioners are A3, A6 and A7. A6 and A7 were already in jail, so they were formally arrested on 18.12.2024 and 20.12.2024 respectively. The petitioners have number of previous cases and the petitioners failed to satisfy the requirement contemplated U/s.37 of the NDPS Act. If the petitioners are released on bail, they would abscond and would continue the same crime and delay the trial proceedings, hence, the petitions for bail may be dismissed.



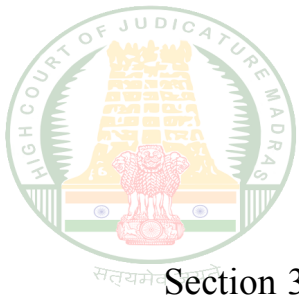
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5. Heard and perused the available records. It is seen from the records that the petitioners are arrayed as A3, A6 and A7. The prosecution alleged that there are totally seven accused and at the time of occurrence all the accused found in possession of 21.250 kgs ganja. On perusal of contents of FIR, the alleged 21.250 kgs ganja was in possession of A1 and the same was recovered from him. On the basis confession of A1, other co-accused were arrayed as accused. The petitioners are said to have involved in trafficking the commercial quantity of ganja. The petitioners have not denied that there are number of previous cases pending against them. 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



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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 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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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 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.

8. In this case, the petitioners state that there is no recovery of ganja from these petitioners. 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 petitioners were arrested on the spot with collective possession of a commercial quantity of contraband. The petitioners are also having number of previous cases. Therefore, it is on record that the petitioners have been involved in crimes in the past and that cases are pending against them. The other arguments of petitioners would be inappropriate to discuss 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 investigation so far, *prima-facie*, the involvement of the

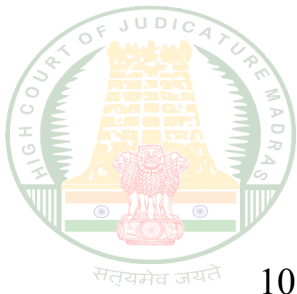


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accused in the present case cannot be brushed aside at this stage. No reason is found to falsely implicate the petitioner/accused.

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 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."

11. Therefore, there is no good ground to release the 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



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considering the application for grant of bail. The petitioners have not satisfied the twin conditions. 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, these Criminal Original Petitions are dismissed.

29.08.2025

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

To

- 1.The Inspector of Police,
Neyveli Thermal Police Station,
Cuddalore 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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