

Crl.O.P(MD).No.11108 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 01.08.2025

Pronounced on : .09.2025

PRESENT

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.O.P(MD).No.11108 of 2025

Prabu

...Petitioner/Accused No.3

Vs.

The State of Tamil Nadu rep. by
The Inspector of Police,
PEW Madurai City,
Madurai District.
(In Crime No.706 of 2024)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, to enlarge the petitioner/Accused No.3 on bail in C.C.No.427 of 2024 on the file of the II Additional Special Court for NDPS Act Cases, Madurai.

For Petitioner : Mr.R.Venkateswaran
For Respondent : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)



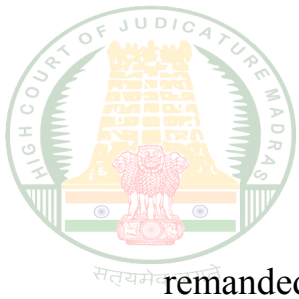
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ORDER

The petitioner seeks bail in connection with the case in C.C.No.427 of 2024 on the file of the II Additional Special Court for NDPS Act Cases, Madurai in Crime No.706 of 2024 of respondent police for the alleged offences U/s.8(c) r/w 20(b)(ii)(c) of NDPS Act.

2. The case of the prosecution is that on 12.06.2024, at about 23.30 hours, the Sub-Inspector of Police received secret information about the sale of Ganja. Based on the same, the police party proceeded to the spot and intercepted the petitioner. Upon search, they found that the petitioner was in possession of 4.750 Kilograms of Ganja and seized the same. The petitioner confessed that he had purchased it from the 2nd accused. Based on this information, on the following day, i.e. in continuation of the proceedings, the police team went to the house of the 2nd accused. At that time, upon seeing the police, the 2nd accused escaped from the place. The petitioner went into the house of the 2nd accused and handed over a bag taken from the house, which contained 28.140 Kilograms of Ganja. Thereafter, the 2nd accused surrendered before the learned Judicial Magistrate No.IV, Madurai, on 15.06.2024 and was



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remanded to judicial custody. On 21.06.2024, based on the confession of the 2nd accused, the respondent police recovered 1.250 Kilograms of Ganja, which the 2nd accused had also kept hidden in another house. The petitioner further informed the police about the involvement of the 3rd and 4th accused. Accordingly, on 28.06.2024, A3 and A4 were arrested while they were travelling in a car, and 5 Kilograms of Ganja was seized from them. Based on their confession, it came to the light that the 5th accused is the wholesale dealer from whom A3 and A4 had purchased Ganja and sold the same to A2, from whom the petitioner had purchased it. Thus, a total of 39.140 Kilograms of Ganja were seized from all the accused. Hence, the case.

3. The learned counsel for the petitioner submitted that the petitioner was arrested on 12.06.2024 and remanded to judicial custody on 13.06.2024. The investigation in this case has been completed, and the final report was filed before the trial Court on 03.12.2024 in C.C.No.427 of 2024. He further submitted that the 2nd accused was arrested and subsequently released on bail by this Court on 18.02.2025 in Crl.O.P.(MD)No.695 of 2025, and the 4th accused was also arrested and later released on bail by this Court on 26.03.2025 in Crl.O.P.(MD)No.3392 of 2025. The petitioner has been in



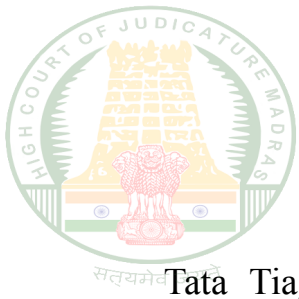
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custody since 13.06.2024. He further submitted that there are two previous cases pending against the petitioner.

4. The learned Government Advocate (Criminal Side) submitted that there are totally five accused persons in this case, and the petitioner was arrested at the spot, and from him, the respondent police recovered 4.750 kilograms of Ganja. Based on A1's confession, the 2nd accused was implicated. When the respondent police went to the house of A2, he fled away upon seeing them. Subsequently, the police seized 28.140 kilograms of Ganja from his house. A1 had purchased the contraband from A2. Thereafter, A2 surrendered before the learned Judicial Magistrate on 15.06.2024, and the respondent police filed a petition before the concerned Court seeking his custodial interrogation.

5. During the custodial interrogation of A2, the petitioner herein and the 4th accused were implicated in the case. After recording A2's confession, the respondent police again visited his house and recovered an additional 1.250 kilograms of Ganja from a small bag. As per the confession of A2, the contraband was purchased from the petitioner. A3 and A4 were arrested on 13.06.2024. At the time of their arrest, the respondent police recovered a



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Tata Tiago car bearing Registration No.TN-77-F-2580. Upon inspection, 5 kilograms of Ganja were found in the luggage compartment of the said car, which belongs to A4. Based on the confession of A3, the 5th accused was also implicated in this case. The native place of A5 is Theni, and he is said to have procured the contraband from Andhra Pradesh, which was subsequently supplied to A3 and A4. A1 and A2 are identified as retailers/sellers of Ganja, A4 is the driver of the vehicle, and A3 is the wholesale purchaser of Ganja from A5. The entire contraband has been recovered. The investigation has been completed, and the final report has been taken on file in C.C.No.427 of 2024 on the file of the EC and NDPS Court, Madurai. The CDR report has also been enclosed. He further submitted that, as per the FIR, the petitioner was initially shown as A1, but in the final charge sheet, he has been arrayed as A3. The petitioner also has one previous case of a similar nature pending against him.

6. Heard and perused available records. It is seen from the records that this is the 5th application filed by the petitioner. The 4th bail petition was dismissed by this Court on 26.03.2025. It is the specific allegation that the petitioner used to procure contraband from A5 and used to supply to other



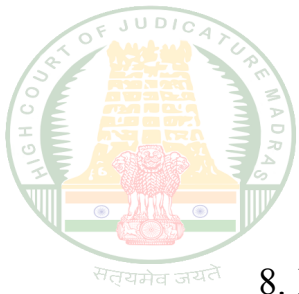
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co-accused for sale and the petitioner was arrested red handed with possession of 4.750 kg of ganja. It is further alleged that on his confession, co-accused were arrested and totally 39.140 grams of ganja were seized. In the earlier dismissal order, this Court observed that the bail was rejected on the opinion that the petitioner might commit similar offence. Admittedly, the petitioner is having five previous cases out of which one case is pending U/s.8(c) r/w 20(b) (ii)(A) and 25 of NDPS Act in Crime No.80 of 2019 of Jaihindpuram Police Station, Madurai.

7. 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. "



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8. 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 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,



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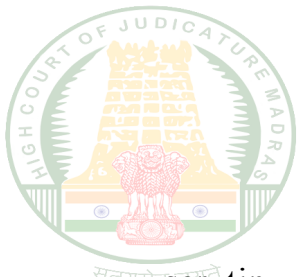


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1973 (2 of 1974), or any other law for the time being in force on granting of bail]”

9. 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.

10. The petitioner states that he was arrested on 12.06.2024 and the respondent police filed the charge sheet and the same was taken on file as C.C.No.427 of 2024 by the II Additional Special Court for NDPS Act Cases, Madurai, and so there is no chance for tampering evidences. The prosecution alleged that the petitioner is the main supplier for sale of ganja by procuring from co-accused. The petitioner is also having 5 previous cases, one is similar nature of crime. Therefore, it is on record that the petitioner has been involved in similar crimes in the past and that several cases are pending against him. 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 Malik 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



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scrutiny required under Section 37(1)(b)(ii) of the NDPS Act. That being so, the petitioner was in possession of contraband. The other contentions would not be appropriate to discuss 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. No reason is found to falsely implicate the petitioner/accused.

11. 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.



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12. 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. 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 NDPS Act is not a ground for bail. Therefore, 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. 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.

13. In the result, this Criminal Original Petition is dismissed.

.09.2025

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

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To

- 1.The II Additional Special Court for NDPS Act Cases,
Madurai.
- 2.The Inspector of Police,
PEW Madurai City,
Madurai District.
- 3.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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