

CrI.O.P(MD).No.11719 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 31.07.2025

Pronounced on : 25.08.2025

PRESENT

THE HONOURABLE MR.JUSTICE P.VADAMALAI

CrI.O.P(MD).No.11719 of 2025

Tamilselvan
S/o.Rajendran

... Petitioner/Accused No.4

Vs.

The State rep. by
The Inspector of Police,
Padalur Police Station,
Perambalur District.
(Crime No.229 of 2023)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, to enlarge the petitioner on bail in C.C.No.30 of 2024 on the file of the II Additional District Judge, Special Court for NDPS Act Cases, Pudukottai.

For Petitioner : Mr.K.Yasar Arafath
Advocate

For Respondent : Mr.B.Thanga Aravindh
Government Advocate (CrI.side)



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ORDER

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The petitioner/Accused No.4, who was arrested and remanded to judicial custody on 11.07.2023 for the offences punishable under Sections 8(c), 20(b)(ii)(C), and 25 of Narcotic Drugs and Psychotropic Substances Act, in C.C.No.30 of 2024 on the file of the learned II Additional District Judge, Special Court for NDPS Act, Cases, Pudukottai, seeks bail.

2. The case of the prosecution is that based on secret information, on 11.07.2023 at about 04.30 a.m., when the defacto complainant Sub Inspector of Police, along with his team, was on surveillance near Chettikulam Dhanalakshmi Petrol bunk, they found a car and an auto bearing registration Nos. TN 61 A 4951 and TN 46 K 9723 respectively, and that the petitioner and other accused persons were exchanging bags from one vehicle to another. The police apprehended them and found that they were in possession of 20.770 kgs of Ganja in the vehicles and the same was seized by the respondent police.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the



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prosecution. He would further submit that no contraband was recovered from this petitioner and charge sheet has also been filed in C.C.No.30 of 2024 on the file of the learned II Additional District Judge, Special Court for NDPS Act, Cases, Pudukkottai. He would further submit that the respondent police have not complied with the mandatory procedures prescribed under the NDPS Act. Further, co-accused/A9 was enlarged on bail by this Court in Crl.OP(MD).No. 3684 of 2024, dated 14.03.2024 and A6, A7 were enlarged on bail by this Court in Crl.OP(MD)Nos.4536 and 4600 of 2024, dated 27.03.2024. He would further submit that the petitioner is ready to abide by any stringent conditions that may be imposed by this Court. He would further submit that the petitioner is in judicial custody from 11.07.2023. Hence, he seeks bail.

4. The learned Government Advocate (Criminal Side) would submit that this is the third bail application filed by the petitioner and that there are totally 9 accused persons involved in this case and the petitioner is arrayed as A4. Further, the allegation against the petitioner is that the petitioner has helped A1 in shifting the contraband ie., Ganja (Commercial quantity – 20.770 kgs) from the car, used for illicit transportation from Andhra State border to the share Auto belonging to A1 and to distribute the same among all the retail sales with

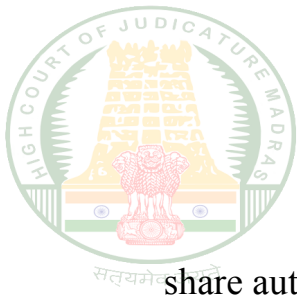


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the intent to earn money illegally and very much aware of the narcotic substance and helped to transport, deliver and smuggle the contraband. The question of quantum of recovery (commercial quantity – 20.770 kgs) at the place of occurrence and bad antecedents can be taken at the time of considering the bail petition. Further, earlier bail applications were dismissed by this Court in CrI.OP(MD).Nos.1123 & 22667 of 2024, dated 24.01.2024 and 19.03.2025 respectively. Further, the petitioner is one of the prime accused in this case. He would further submit that the petitioner along with other accused persons have purchased the Ganja and re-sale. He would further submit that the investigation has been completed and the charge sheet has also been filed in C.C.No.30 of 2024 on the file of the learned II Additional District Judge, Special Court for NDPS Act, Cases, Pudukottai. He would further submit that there are 13 previous cases pending against the petitioner. He would further submit that if the petitioner is released on bail, he will abscond, commit similar offence and cause threat to the witnesses. Hence, he strongly opposed for grant of bail to the petitioner.

5. Heard and perused the available records. It is seen from the records that the petitioner is arrayed as A4, who was shifting the contraband from car to



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share auto for sale. It is alleged that the seized contraband is 20.770 kg which is commercial quantity. The petitioner has not denied that except this case, he has 12 previous cases of various kinds of alleged crimes. The Hon'ble Supreme Court held in a catena orders relating to bail matters under 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 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),—



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(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]”

The Hon'ble Supreme Court in its order reported in **2024 INSC 114, S.L.P. (State Vs. B.Ramu) (Crl.)No.8137 of 2022, 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.



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7. In this case, the petitioner has been arrested on the spot and arrayed as A4. The petitioner is also having bad antecedents by involving in 12 previous cases of various nature of crime including Arms Act, TNPHW Act, TNPPDL Act. Therefore, it is on record that the petitioner has been involved in 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 scrutiny required under Section 37(1)(b)(ii) of the NDPS Act.

8. The petitioner has further submitted that he has been in jail for more than one year. 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, 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 the NDPS Act is not a ground for bail. The respondent police filed a charge sheet

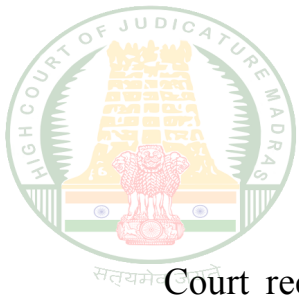


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and the same taken on cognizance as C.C.No.30 of 2024 on the file of the Additional Special Court for NDPS Act Cases, Pudukottai and the case is now pending for examination of Investigating Officer. Offences relating to the sale of contraband, adulterated or spurious drugs, which would affect a very large number of population, and the offences carry punishment upto minimum of 10 years RI. Restrictions of Courts' power to grant bail to an accused person are provided in Section 37 of the NDPS Act. In **Criminal Appeal No(s). 154-157 of 2020, 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. 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.

9. It is seen from available records that the petitioner/accused has bad antecedents and the case is now pending for examination of I.O. Therefore, this



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Court records that the prosecution prima facie produced sufficient materials that the petitioner would commit the same offence in case of release on bail because he is shown as a habitual offender. 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. Therefore, it is quite clear that an order of bail cannot be granted in an arbitrary or fanciful manner. The petitioner/A4 has been arrested on the spot on the allegation while shifting a commercial quantity of contraband from car to auto for sale. So, no reason is found to falsely implicate the petitioner/accused. 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 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.

10. In the result, this Criminal Original Petition is dismissed. However, the learned II Additional District Judge, Special Court for NDPS Act Cases, Pudukottai, is directed to complete the trial and dispose of the case in



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C.C.No.30 of 2024 on merits within a period of five months from the date of

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receipt of a copy of this order.

25.08.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Inspector of Police,
Padalur Police Station,
Perambalur District.
- 2.The II Additional District Judge,
Special Court for NDPS Act Cases,
Pudukottai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

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Pre - Delivery Order made in
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