



Crl.O.P.(MD) Nos.15094 & 16742 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	24.10.2025
Pronounced On	10.11.2025

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) Nos.15094 & 16742 of 2025

1.Manikandan @ Gold Mani

2.Marimuthu

3.Chinnaraja

... Petitioners in Crl.O.P.
(MD) No.15094 of 2025

Bava Bagurudeen @ Bagurudeen

... Petitioner in Crl.O.P.
(MD) No.16742 of 2025

Vs.

State of Tamilnadu rep. by
The Inspector of Police,
Jagathapattinam Police Station,
Pudukkottai District.
Crime No.07 of 2025

... Respondent in both
Crl.O.Ps.

Prayer in Crl.O.P.(MD) No.15091 of 2025 : Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the records and set aside the order passed in Crl.M.P.No.1786 of 2025 dated 08.07.2025 on the file of the learned Additional District Judge for EC and NDPS Act, Pudhukottai.



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Prayer in Crl.O.P.(MD) No.16742 of 2025 : Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the records and set aside the order passed in Crl.M.P.No.2025 of 2025 dated 23.07.2025 on the file of the learned Additional District Judge for EC and NDPS Act, Pudhukottai.

For Petitioners in
both Crl.O.Ps. : Mr.Karthikeyan, Senior Counsel
for Mr.K.Subburaj

For Respondent in
both Crl.O.Ps. : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

COMMON ORDER

The petitioners, who have been arrayed as A4 to A6 and A3 respectively, and are in custody in Crime No.7 of 2025 registered for the offences punishable under Sections 8(c), 20(b)(ii)(C), 25 and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985, have challenged the orders dated 08.07.2025 and 23.07.2025 passed by the learned Additional District Judge for EC and NDPS Act Cases, Pudukkottai, in Crl.M.P.No.1786 of 2025 and Crl.M.P.No.2025 of 2025, allowing the request of the respondent for extension of time to conduct further investigation and file the final report and rejecting the statutory bail.



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2. The petitioners were arrested on 12.01.2025. It is the case of the prosecution that the first and second accused were found in possession of 340 kgs of ganja; and that the petitioners/A4 to A6 and A3 were also involved in the offence of conspiracy in the alleged crime.

3. The statutory period of 180 days for investigation from the date of remand of the accused, i.e., 12.01.2025, expired on 11.07.2025. The learned Public Prosecutor filed a report in Crl.M.P.No.1786 of 2025 seeking extension of time to complete the investigation under Section 36A(4) of the NDPS Act. The learned Additional District Judge for EC and NDPS Act Cases, Pudukkottai, extended the time for completion of the investigation by two months, *vide* the order dated 08.07.2025 impugned in Crl.O.P.(MD) No.15094 of 2025. Subsequently, the petitioner in Crl.O.P.(MD) No.16742 of 2025 filed Crl.M.P.No.2025 of 2025 under Section 187(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking statutory bail, which was dismissed by the learned Additional District Judge for EC and NDPS Act Cases, Pudukkottai, *vide* the order dated 23.07.2025 impugned in Crl.O.P.(MD) No.16742 of 2025.



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4. The learned counsel for the petitioners would submit that, without adhering to the principles laid down by the Hon'ble Supreme Court and this Court, the learned Additional District Judge had extended the period by another two months to complete the investigation, thereby denying the petitioners their valuable right to be released on statutory bail; and that the report of the learned Public Prosecutor seeking extension of time has to satisfy the twin requirements, namely, that there is appreciable progress in the investigation and that there are specific and compelling reasons to justify further detention pending investigation. In support of his submissions, he would rely upon the orders of this Court in ***Mohamed Asaruthin v. State of Tamil Nadu rep. by the Inspector of Police, Gummidipoondi Prohibition Enforcement Wing, Gummidipoondi***, dated 27.11.2024, in Crl.R.C. Nos.1847, 1885, 1849 and 2002 of 2024, and in ***S.Kuppusamy v. The State rep. by the Inspector of Police, PEW, Gummidipoondi Police Station, Tiruvallur***, dated 31.01.2025, in Crl.R.C. No.1307 of 2024.

5. The learned Additional Public Prosecutor for the respondent, per contra, would submit that the final report in this case was filed on 31.08.2025 and taken on file as C.C.No.186 of 2025 on 03.09.2025; that



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the trial will be concluded in the near future; and that since the petitioners are involved in serious offences, wherein the first and second accused were found in possession of 340 kgs of ganja, the impugned orders do not call for any interference.

6. The short point involved in this case is whether the impugned orders extending the period by two months for filing the final report, on the report filed by the learned Public Prosecutor, and rejecting the statutory bail, can be sustained.

7. In paragraph 11 of the report, the learned Public Prosecutor had sought extension of time by stating that they are awaiting the report under Section 63 of the BNS and the mobile call records of the accused; that A7 - Arul Vinnasaran and A8 - Mansoor are yet to be arrested; that certain other suspects residing in Andhra Pradesh have to be enquired into and arrested; that the Toll Plaza details and CCTV footage have to be obtained; and that the witnesses have to be further examined. In the report, the details of the investigation conducted have been mentioned. However, the report does not specify compelling reasons to justify further detention pending investigation.



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8. The Full Bench of Calcutta High Court in ***Subhas Yadav v. State***

of West Bengal, reported in (2023) SCC OnLine Cal 313, had observed as follows:

“31. In light of the aforesaid discussion, the issues are answered as follows:—

1. Right of an accused to statutory bail upon expiry of the period of detention prescribed under section 36A(4) of NDPS Act is an inchoate one till he avails of his right by seeking statutory bail either by way of an application or even orally. Hence, he cannot be released automatically on statutory bail on the mere expiry of 180 days even if the prosecutor has failed to submit report seeking extension of detention in terms of the proviso to section 36A(4) of the Act before expiry of the said period;

2. Order extending the period of detention under proviso to section 36A(4) of NDPS Act on a report of the Public Prosecutor submitted after expiry of 180 days but prior to the accused availing of his right does not envisage retrospective operation but the total period of detention under the aforesaid provision cannot exceed one year in the whole;

3 .As per Para 25.3 of M. Ravindran (supra) the right to statutory bail stands extinguished once the report of the Public Prosecutor seeking extension is filed. Hence, remand of the accused till the prayer of the prosecutor is disposed of is traceable to section 167(2) Cr. P.C. read with section 36A(4) of the NDPS Act. In the event, the application for extension is dismissed or an order extending detention is set aside by a superior court right to statutory bail revives in favour of the accused;



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4. Upon expiry of 180 days of detention, Special Court as a cautionary measure ought to inform the accused (particularly if he is from an underprivileged section of society and is unrepresented by a counsel) of his right to statutory bail. However, failure to intimate the accused of his right by itself would not entitle him to statutory bail unless he avails of such relief;

5. Prayer for extension of period of detention must be on the basis of a report of Public Prosecutor which must record progress of investigation and spell out specific reasons to justify further detention beyond 180 days pending investigation;

6. Special Court on the basis of the report of Public Prosecutor and materials in support of such plea must be satisfied of the twin requirements, i.e., (a) there is appreciable progress in the investigation and (b) there are specific/compelling reasons to justify further detention pending investigation. Each case has to be decided on its own merits. For example, failure to complete investigation solely on the score of nonsubmission of FSL report of the samples drawn from the contraband is an institutional shortcoming. This by itself may not justify further detention pending completion of investigation. But if the aforesaid fact situation is coupled with compelling circumstances like complexities in investigation in an organized crime racket or inter-state/trans-border trafficking, criminal antecedents of the accused giving rise to possibility of recidivism, abscondence of co-accused, etc., constituting 'specific reasons' justifying further detention, the Court may be inclined to extend the period of detention and deny liberty;

7. Prayer for extension of period of detention must be decided at the earliest without undue delay preferably within 7 days from making such application. Reasons for adjournment must be specifically stated;



8. No written notice or copy of report of Public Prosecutor requires to be served upon the accused or his counsel but the accused or his counsel must be present personally or through video linkage at the time of consideration of the application. Accused and/or his counsel must be aware of such consideration and may raise objection, if any, with regard to compliance of mandatory requirements of law.”

9. Under similar circumstances, this Court, in **Mohamed Asaruthin** (cited *supra*), by following the aforesaid judgment of the Full Bench of the Calcutta High Court and the judgment of this Court in **Varun and others v. State**, reported in (2024) SCC OnLine Mad 162, which also followed the said Full Bench of the Calcutta High Court, has observed as follows:

“28. The above observations would indicate that request for extension by the prosecution and the report of the Public Prosecutor, is for the Court to consider based on the reasons assigned in the report. The presence of the accused is only to inform him about the extension of period and consider his objections, if any. Therefore, there is no necessity to call upon the accused to file a counter in the said application. All that the Court is required to consider is whether the report of the Public Prosecutor satisfies the twin requirements, namely:-

(a) There is appreciable progress in the investigation.

(b) There are specific compelling reasons to justify further detention pending investigation.



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Therefore, the trial Courts are expected to follow the above directions without any deviation and consider the applications at the earliest and not later than seven days as directed by this Court in Varun's case [cited supra] following the Full bench judgment of the Calcutta High Court."

10. A reading of the report filed by the learned Additional Public Prosecutor for extension of time would suggest that there are no compelling reasons to justify further detention pending further investigation. Section 36A(4) of the NDPS Act reads as under:

36A. Offences triable by Special Courts.-- (1) *Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),-*
(1)

.....
(4) *In respect of persons accused of an offence punishable under section 19 or section 24 or section 27A or for offences involving commercial quantity the references in sub-section (2) of section 167 of the Code of Criminal Procedure, 1973 (2 of 1974) thereof to "ninety days", where they occur, shall be construed as reference to "one hundred and eighty days":*

Provided that, if it is not possible to complete the investigation within the said period of one hundred and eighty days, the Special Court may extend the said period up to one year on the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of one hundred and eighty days.



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11. The above provision modifies Sub-Section (2) of Section 167 of the Code of Criminal Procedure, 1973, inasmuch as, in respect of offences under Sections 19, 24, or 27A of the NDPS Act, or for offences involving a commercial quantity, the period of 90 days shall be construed as 180 days. The proviso to Section 36A(4) of the NDPS Act has to be construed as one permitting the learned Public Prosecutor to file a report seeking extension of detention beyond 180 days.

12. The said proviso has unfortunately been understood by the respondent in this case as one permitting the learned Public Prosecutor to seek extension of time to file the final report. Law does not require the Investigation Officer to obtain permission to file the final report after a period of 180 days from the date of arrest, as there is no limitation for taking cognizance of the aforesaid offences. The said proviso only empowers the Special Court to extend the detention beyond 180 days on the request of the Public Prosecutor. Therefore, the report must seek and justify the further detention and not extension of time to file the final report. Unfortunately, as stated earlier, in the report of the learned Public Prosecutor, no compelling reasons for further detention beyond the period of 180 days have been stated.



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13. The learned Additional District Judge for EC and NDPS Act Cases, Pudukkottai, also has unfortunately misconstrued the scope of the petition under the proviso to Section 36A(4) of the NDPS Act and granted two months' time to complete the investigation. There is nothing in the impugned orders to suggest that the learned Additional District Judge had satisfied himself as to the necessity of detaining the petitioners beyond the period of 180 days.

14. Therefore, the Trial Courts and the Public Prosecutors dealing with NDPS cases must be informed about the scope of an application filed under the proviso to Section 36A(4) of the NDPS Act. Unless the Public Prosecutor provides compelling reasons for the further detention of the accused beyond the period of 180 days, the learned Trial Judge cannot grant any extension under Section 36A(4) of the NDPS Act. Therefore, the impugned orders extending the said period and rejecting the statutory bail on the ground that extension of time has been granted cannot be sustained and are set aside.



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15. As a sequitur, the application filed by the petitioners, which had been returned citing the pendency of the petition, has to be taken on file, and the petitioners have to be released on statutory bail. Since the petitioners have already exercised their right to statutory bail, this Court is inclined to grant bail to the petitioners on the following conditions:

- i. The petitioners shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties, each for a like sum, to the satisfaction of the learned Additional District Judge for EC and NDPS Act Cases, Pudukkottai.
- ii. The petitioners and the sureties shall affix their photographs and left thumb impressions on the surety bond, and the Trial Court may obtain copies of their Aadhaar Cards or Bank Passbooks and mobile numbers to ensure their identity; and
- iii. The petitioners shall appear before the Trial Court on the first working day of every month at 10:30 a.m. until further orders. If they are unable to appear before the Trial Court on any such day, they shall make arrangements to file an application under Section 317 of Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of their absence, as directed by the Trial Court.



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16. Accordingly, both these Criminal Original Petitions are allowed.

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Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

Copy To:

- 1.The Additional District Judge for EC and NDPS Act,
Pudhukottai.
- 2.The Inspector of Police,
Jagathapattinam Police Station,
Pudukkottai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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Pre-Delivery Common Order made
in
Crl.O.P.(MD) Nos.15094 & 16742 of 2025

10.11.2025