



CRL OP (MD). No.21254 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 13.03.2025

PRESENT

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

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Mathiyalagan

... Petitioner/ Accused No.4

Vs

The State of Tamil Nadu,
Rep. by the Inspector of Police,
Usilampatti Town Police Station,
Madurai District.
Crime No.652 of 2023

... Respondent/ Complainant

For Petitioner : Mr.J.Jeya Aron Raja
For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :-For bail in Crime No.652 of 2023 on the file of the respondent-police.

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 03.12.2024

<https://www.mhc.tn.gov.in/judis> under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, praying



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to grant bail.

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2. The petitioner/A4 was arrested and remanded to judicial custody on 06.11.2024 for the alleged offences punishable under Sections 8(c) and 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.652 of 2023 on the file of the respondent-police.

3. The case of the prosecution is that, based on secret information, on 29.12.2023, at about 12:15 p.m., when the respondent-police were on patrol duty near Usilampatti-Vathalakundu-Mekkilarpatti Division Road, they found that A1 was in illegal possession of 24 kgs of ganja in a white-colored sack. Based on the information provided by A1, the police proceeded to Kokadiyanpatti, where they found that A2 was in possession of 36 kgs of ganja. Based on the confession of A2, the other accused persons have been arrayed as accused. The petitioner is A4, who was arrested on 06.11.2024. Hence the case.

4. Mr.J.Jeyaaron Raja, the learned counsel appearing for the petitioner, submits that the respondent-police filed absconding charge sheet against the petitioner, who was arrested on 06.11.2024. He further submits that the petitioner did not commit any offence as alleged by the prosecution, and he has been falsely implicated in this case. He further submits that the petitioner and his wife were arrayed as accused in this case, only based on the confession said to have been given by A1 and A2, and



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no contraband was recovered from the petitioner. He further submits that the petitioner has no previous case and that the petitioner has been in judicial custody since 06.11.2024. He however submits that the petitioner is ready to abide by any condition that may be imposed by this Court. He therefore prays to grant bail to the petitioner.

5. Per contra, Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor appearing for the respondent-police, submits that the petitioner and his wife purchased contraband from Andhra Pradesh and gave it to A1 and A2 for sale. The petitioner and the other accused conspired together, purchased ganja, and sold it. Further, the prosecution agency collected the CDR details of the petitioner. The petitioner contacted A1 96 times and A2 19 times. He further submits that the CDR details and other materials collected by the Investigation Agency show the involvement of the petitioner in the crime. He further submits that the petitioner has not established a prima facie case and, hence, the petitioner is not entitled to bail in this case in view of the rigors stated in Section 37 of the NDPS Act. He relies upon the judgment of the Hon'ble Supreme Court in Narcotics Control Bureau v. Mohit Aggarwal, reported in (2022) 18 SCC 374. Accordingly, he prays to dismiss this Criminal Original Petition.

6. Heard on both sides. This Court has perused the records.



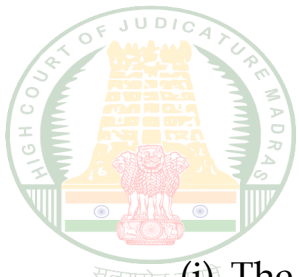
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7. The petitioner was arrested on 06.11.2024 and has been in judicial custody.

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The present petitioner was arrayed as an accused based on the confession of A1 and A2. The prosecution agency relied on CDR particulars and other materials to connect the petitioner with the crime. The submission of the learned Additional Public Prosecutor is that the petitioner/A4, along with the other accused persons, purchased the contraband for the purpose of selling it, and therefore, the recovery of contraband from the co-accused persons/A1 and A2, should be taken into account, and the contraband recovered from them (24 kgs. +36 kgs.) constitutes a commercial quantity. This Court is not inclined to accept the above submission for the reason that no recovery of Ganja was made from him. Hence, this Court is of the view that the rigors stated in Section 37 of the NDPS Act would not be applicable to the case. It is to be noted that the above view is recorded solely for the purpose of deciding the bail petition. This view, in no way, would prejudice the rights of the prosecution in establishing the case during the trial.

8. Considering the above, and also considering the period of incarceration, and with a view to give an opportunity to the petitioner to reform himself, this Court is inclined to grant bail to the petitioner, however, subject to certain conditions. Accordingly, bail is granted to the petitioner subject to the following conditions:



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(i) The petitioner shall execute a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) along with two sureties each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the learned Principal Special Judge, Special Court for EC and NDPS Act cases, Madurai;

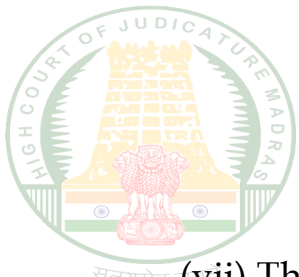
(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Principal Special Judge, Special Court for EC and NDPS Act cases, Madurai shall obtain a copy of any one of identity proofs to ensure their identity;

(iii) The petitioner shall furnish his residential address and mobile number to the learned Principal Special Judge, Special Court for EC and NDPS Act cases, Madurai;

(iv) The petitioner shall appear and sign before the learned Principal Special Judge, Special Court for EC and NDPS Act cases, Madurai, on all working days at 10.30 a.m., until further orders;

(v) The petitioner shall attend in accordance with the conditions of the bond to be executed under Chapter XXXV of BNS, 2023;

(vi) The petitioner shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected;



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(vii) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence; and

(viii) On breach of any of the aforementioned conditions, the learned Principal Special Judge, Special Court for EC and NDPS Act cases, Madurai is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by him as laid down by the Hon'ble Supreme Court in P.K. Shaji vs. State of Kerala [(2005) 13 SCC 283].

9. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated supra.

sd/-
13/03/2025

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/03/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

mbi

TO
1 THE PRINCIPAL SPECIAL JUDGE,
SPECIAL COURT FOR EC AND NDPS ACT CASES,
MADURAI

<https://www.mhc.tn.gov.in/judis>



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2 THE SUPERINTENDENT,
CENTRAL PRISON,MADURAI

3 THE INSPECTOR OF POLICE,
USILAMPATTI TOWN POLICE STATION,
MADURAI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.J.JEYA ARON RJA, Advocate (SR-2768[I] dated 13/03/2025)

ORDER
IN

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Date :13/03/2025

MK/VR/SAR /14.03.2025 7P/6C

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