

Crl.O.P.(MD)No.16146 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.16146 of 2025

A.Sugantharaj

... Petitioner/Accused No.5

Vs.

The State of Tamil Nadu, rep. by,
The Inspector of Police,
NIB-CID Trichy,
(In Crime No.4 of 2024)

... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to direct the trial court to accept the petitioner's sureties as directed by the docket order dated 20.08.2025 in C.C.No.122 of 2024, passed by the learned Additional District Judge for EC and NDPS Act Cases, Pudukkottai.

For Petitioner : Mr.P.Pugalenth

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to direct the Trial Court to accept the petitioner's sureties as directed by the docket order dated 20.08.2025 in



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C.C.No.122 of 224 by the learned Additional District Judge for EC and NDPS

Act Cases, Pudukkottai.

2. According to the petitioner, he was not arrested during investigation and hence, he appeared before the Trial Court on summons; that on 20.08.2025, the learned Sessions Judge had directed the petitioner to execute a bond for a sum of Rs.10,000/- with two sureties for the like sum; that on the next date of hearing, i.e., 03.09.2025, when the petitioner produced two sureties, the learned Judge refused to accept the sureties as the respondent had opposed the prayer of the petitioner.

3. The learned Additional Public Prosecutor appearing for the respondent would submit that the respondent has not objected to the execution of sureties.

4. Section 88 of Criminal Procedure Code reads as follows:

"88. Power to take bond for appearance.

- When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or



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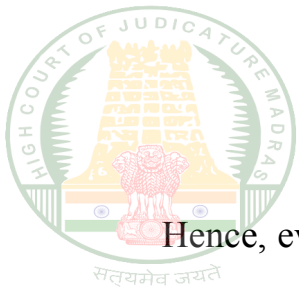
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without sureties, for his appearance in such Court, or any other Court to which the case may be transferred for trial."

5. Admittedly, the petitioner was not arrested during investigation and he had appeared on summons before the learned Sessions Judge. The learned Sessions Judge is empowered to direct the petitioner to execute a bond in terms of Section 88 of Cr.P.C.

6. The Hon'ble Supreme Court in the case of ***Pankaj Jain Vs. Union of India and another*** reported in ***(2018) 5 SCC 743***, had held as follows:

"30. We thus conclude that the word "may" used in Section 88 confers a discretion on the Court whether to accept a bond from an accused from a person appearing in the court or not. The both Special Judge, CBI as well as the High Court has given cogent reasons for not exercising the power under Section 88 CrPC. We do not find any infirmity in the view taken by the Special Judge, CBI as well as the High Court in coming to the conclusion that the accused was not entitled to be released on acceptance of bond under Section 88 CrPC. We thus do not find any error in the impugned judgment of the High Court."



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Hence, even if the learned Sessions Judge is of the view that the accused is not entitled to be released on bond under Section 88 of Cr.P.C., cogent reasons have to be given. In this case, admittedly, the learned Sessions Judge had directed the petitioner to execute a bond in the previous hearing. Therefore, this Court directs the learned Sessions Judge to pass appropriate orders taking into consideration Section 88 of Cr.P.C and the aforesaid observations of the Hon'ble Supreme Court.

7. With the above observations, this Criminal Original Petition is disposed of.

24.09.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm

Note: Issue order copy by 30.09.2025

To
1.The Additional District Court
for EC and NDPS Act Cases,
Pudukkottai.

2.The Inspector of Police,
NIB-CID Trichy,



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3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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SUNDER MOHAN, J.

Lm

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