



CRL OP(MD). No.21510 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 06/01/2025

PRESENT

The HONOURABLE MR. JUSTICE N.ANAND VENKATESH

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Pranesh,
(Presently Being Confined at
Central Prison, Trichy).

... Petitioner/ Accused No.1

Vs

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

... Respondent/Complainant

For Petitioner : Mr.Kasirajan.S.,
Advocate.

For Respondent : Mr.S.Ravi,
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :-

To enlarge the petitioner/3rd accused on bail in C.C.No. 122 of 2024 pending on the file of the Additional District Judge for EC and NDPS Act Cases Pudukkottai.



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ORDER : The Court made the following order :-

The petitioner / 1st Accused, who was arrested and remanded to judicial custody on 14.02.2024 for the offences under Sections 8(c) r/w. 20(b)(ii)(c), 25 and 29 (1) of NDPS Act in C.C.No. 122 of 2024 on the file of the learned Additional District Judge for EC and NDPS Act Cases Pudukkottai, seeks bail.

2. The case of the prosecution is that based on a secret information, it came to light that 140 kgs of ganja is being carried in a vehicle and the ganja is being transported from Andhrapradesh. The petitioner and Accused No.3 were travelling in a two-wheeler and Accused Nos.2 and 4 were travelling in a lorry. The vehicles were intercepted and the contraband was seized. There are totally four accused persons in this case and the petitioner has been arrayed as Accused No.1.

3. This Court had an opportunity to deal with the bail application filed by Accused No.3 in CrI.O.P.(MD).No.16222 of 2024. While dealing with this bail application, this Court found some disturbing features in the investigation and for proper appreciation, the relevant portions are extracted hereunder:



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"7. Upon perusal of the records, the following disturbing features are revealed in this case; (i) even though the prosecution is said to obtain the confession from the accused, from which the case of the prosecution seems to be that the said Sugandharaj only arranged the ganja, neither any case to the contrary has been unearthed in the investigation nor the said Sungadharaj seems to have been investigated. As per the confession statements, it is only the said Sugandharaj, who is the common person, who arranged the said Pranesh and the petitioner herein, to go to Andhra Pradesh for fetching the ganja. The said fact seems to have been totally not investigated.

(ii) Even though the cell phone was recovered at the time, it is mentioned in the observation magazar "gadw;w cell phone". Even if the cell phone is useless, still it would have been sent to the RFSL and the IMEI number could have been traced through which the SIM number could have been traced and the call details everything could have been taken.

(iii) Even the CDR particulars which is traced out in respect of the other cell phone does not form part of the final report and is kept in the file.

(iv) It is also stated that they have unearthed the Bank statement of deposit of money with reference to the first accused and another card for paying money for filling diesel was also gathered; but were not made as the part of the final report.

8. The investigation in this case is seriously lacking and is shocking. The



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prosecution is supposed to file a final report by coming up with a final version. They have to come up with a version as to who arranged for the ganja, from where it is procured and where it is destined. Absolutely except for the seizure, no investigation whatsoever seems to have been conducted and the charge sheet has been filed.

9. When this Court enquired about the same, the learned Additional Public Prosecutor submitted that the matter will be placed before the higher authorities and further investigation would be undertaken to collect the materials. In any event, it can be seen that a huge quantity of 140kgs of ganja has been recovered from the lorry which is being driven by a A-2, and A-4 was coming along with A-2 in the lorry. If the petitioner herein and the said Pranesh are the one who have engaged them, then certainly they can also be included as an accused. But however, the prosecution has to conduct an investigation in the proper sense of the term and bring all the materials and file the final report. The copy of this order be placed before the Director General of Police for closer scrutiny. If necessary, the Director General of Police shall also consider entrusting the matter to any other appropriate officer to conduct further investigation. The law now it is settled that it will be open for the prosecution to carry out further investigation and they can always file the supplementary report by gathering materials and by properly imputing role played



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by each accused and to collect such materials for the role played by them. The Court permission shall also be obtained by filing an appropriate application before the trial Court for sending the 'cell phone', which is now said to be lying in Malkana and the further investigation shall be carried on and completed as soon as possible and supplementary final report can be filed.

10. For all the above reasons, considering the fact that the petitioner is in judicial custody from 14.02.2024 and the statutory period of investigation of 180 days is already over and now only further materials are sought to be collected, for the present, I am inclined to enlarge petitioner on bail by holding that the petitioner has made out a case to come out of the rigor of Section 37 of NDPS Act.

4. The learned counsel appearing for the petitioner submitted that the petitioner is placed on an equal footing like Accused No.3 and therefore, the petitioner can be considered to be enlarged on bail by imposing any condition as was done for Accused No.3.

5. The learned Additional Public Prosecutor appearing for the respondent Police relied upon the counter affidavit filed by the respondent Police. He further submitted that pursuant to the above order passed by this Court, further



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investigation has been conducted and it will be completed shortly and a supplementary report will be filed. In the course of further investigation, vital materials were collected against the petitioner and for this purpose, the learned Additional Public Prosecutor relied upon Paragraph No.6 of the counter affidavit which is extracted hereunder:

"6. I submit that the petitioner herein is the main accused in this case. The contraband was seized from a truck bearing Regn No. TN04AY8617. The said lorry filled up diesel at Anuradha Filling Station, Vishakapattinam on 09.02.2024 for a sum of Rs.5,000/- and the said amount was paid through card of one Radha. The said Radha is a sister of this petitioner and she categorically stated that the said card is used by the petitioner herein. Apart from the above said material, at the time of occurrence two mobile numbers 8807591695 and 9894617782 used by the petitioner was seized by the respondent police. The tower location of both mobiles established at Andhrapradesh and there were call details records between the petitioner through his mobile number 9894617782 with A-2's mobile number 8940391296 and A-4's mobile number 9043567264."

6. The learned Additional Public Prosecutor appearing for the respondent Police submitted that further investigation will be completed in another twenty days



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and a supplementary report will be filed. He also brought to the notice of this Court that there is one previous case against the petitioner under the NDPS Act and hence, vehemently opposed the grant of bail to the petitioner.

7. In the considered view of this Court, the case of the petitioner stands on the same footing as that of Accused No.3. Whatever reasons were assigned while enlarging Accused No.3 on bail will equally apply to the petitioner also. It may be true that the materials are being collected against the petitioner and also Accused No.3 in the course of further investigation. That by itself cannot be a ground to deny bail to the petitioner considering the fact that the petitioner has suffered incarceration from 14.02.2024.

8. In the light of the above discussion, considering the fact that the petitioner is in judicial custody from 14.02.2024 and the statutory period of investigation of 180 days is already over and now only further materials are sought to be collected, for the present, this Court is inclined to enlarge the petitioner on bail by holding that the petitioner has made out a case to come out of the rigor of Section 37 of NDPS Act.

9. Accordingly, the criminal original petition is ordered and the petitioner is



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ordered to be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees ten thousand 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 and on further conditions that:-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent Police daily at 10.30 a.m. until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under



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Section 269 of BNS, 2023.

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Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

TSG
TO

- 1 THE ADDITIONAL DISTRICT JUDGE
FOR EC AND NDPS ACT CASES, PUDUKKOTTAI.
 - 2 THE INSPECTOR OF POLICE
NIB - CID TRICHY UNIT,
TRICHY
 - 3 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.S.KASIRAJAN, Advocate (SR-86[I] dated 06/01/2025)

ORDER
IN

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Date :06/01/2025

SS/SAR- /06/01/2025/ 9P/6C

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