



Crl.OP.(MD)No.17189 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on: 16.10.2025

Pronounced on: 23.10.2025

PRESENT

The HONOURABLE MRS.JUSTICE S.SRIMATHY

CRL OP(MD)No.17189 of 2025

Sasikumar

...Petitioner/Accused No.5

Vs.

Union of India

Represented by the Intelligence Officer,
Narcotics Control Bureau,
Madurai Sub Zonal, Madurai.

... Respondent

PRAYER: Criminal Original Petition is filed under Sec.483 of BNSS, 2023 to enlarge the petitioner on Bail in connection with C.C.No.65 of 2024, on the file of the Special Court for EC and NDPS Act cases Pudukottai arising out of F.No.48/1/12/2023/NCB/MDS.

For Petitioner : Mr. C. Prasanna Venkatesh

For Respondent: Mr. Arul Vadivel @ Sekar

Special Public Prosecutor for NCB cases



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ORDER

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The Criminal Original Petition has been filed to enlarge the petitioner / Accused No.5 on Bail in connection with C.C.No.65 of 2024, on the file of the Special Court for EC & NDPS Act cases Pudukottai arising out of F.No. 48/1/12/2023/NCB/MDS. The petitioner is under judicial custody for more than twenty-five months without trial reaching completion and the prolonged detention amounts to pre-trial punishment and infringes personal liberty granted under Article 21.

2. The case of the prosecution is that on 16.08.2023 ganja weighing about 423 kilograms was seized from a Mahindra Bolero Vehicle in Ramanathapuram District and three accused were apprehended at the spot.

3. The contention of the petitioner Sasikumar is that he was not present at the scene of occurrence nor was any contraband recovered from his possession. The petitioner was implicated based on confession statement and tower location which are insufficient to establish culpability in the absence of corroboration. The petitioner had already filed three bail applications and the same were dismissed with an expectation that the trial would be completed. However,



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there was direction to complete earlier, but the same was not completed and the delay would constitute material change of circumstances. Further the petitioner had suffered personal loss due to his son's death on 11.09.2024 and this Court had granted two days interim bail and the same is complied, without any breach of conditions. Due to death of son the petitioner's wife is undergoing trauma and she is undergoing psychiatric treatment. The A1 was granted bail by the Special Court and the petitioner is similarly placed, is entitled to bail on the principle of parity. Hence the present bail application.

4. The respondent had filed objections stating that the accused had admitted the guilt by giving voluntary statements. The Trial Court has posted the case on 28.10.2025 for continuation of chief examination of PW8. The contraband involved is commercial quantity. The petitioner is accused No.5. The Accused No.1 was using the mobile which are registered in the name of the petitioner / accused No.5. And the SIM Card registered in the name of the petitioner Sasikumar / accused No.5 was recovered from A1. Further the petitioner along with A1 was supervising the transferring of contraband near the Viralimalai Toll gate. Further there are other incriminating documents against the petitioner, hence the respondent opposed the present bail application.



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5. The learned Special Public Prosecutor appearing for the respondent submitted that the charge sheet has been filed and Trial have started and the Trial would be completed in couple of months. Further submitted that the mobile number of the petitioner was located within the vicinity of occurrence and opposed to grant bail.

6. The primary contention of the petitioner is that the Accused No.1 was granted bail by the Trial Court itself. In fact, the Accused No.1 had approached the Supreme Court for bail and the bail was dismissed on 04.02.2025, however it was observed that if the Trial is not completed within three months, then liberty was granted to the Accused No.1 for filing the bail application afresh. When the trial was not completed within three months, the said 1st accused had filed bail petition based on the observation of the Hon'ble Supreme Court. The Trial Court had considered the same and granted bail. The respondent had not filed any appeal against the same. When the trial has not been completed even after three months, thereafter further three months and one month was granted, then also the trial was not completed. In such circumstances, this Court is of the considered opinion that the petitioner is entitled to be considered on the basis of parity.



7. However, under section 37 of NDPS Act it is stated that no person is entitled to bail provided the test prescribed under the section ought to be satisfied. The said section is extracted hereunder:

"[37. Offences to be cognizable and non-bailable.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for 3[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.]"

8. The section states to issue notice to the Public Prosecutor. This Court



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had issued notice to the Public Prosecutor, who in turn had filed objections and opposed to grant bail. Hence the said condition is satisfied.

9. The section further states if the Public Prosecutor opposes the bail, then the court ought to satisfy itself the twin test,

- (i) *that there are reasonable grounds for believing that he is not guilty of such offence and*
- (ii) *that he is not likely to commit any offence while on bail*

In the present case the charge against the petitioner is based on the confession statement. And the petitioner's mobile was traced within the vicinity of the place of crime and the 4th accused had used the petitioner's mobile and sim card. However, the contention of the petitioner is that he is a youtuber and has no connection with the crime at all.

10. It is seen the petitioner was charged based on the confession of co-accused. The Court perused the chief examination of PW1 wherein it is stated that the Accused No.2 Naina Mohamed had stated that both Accused No.1 Parimaladass and Accused No.2 Naina Mohamed both earlier smuggled ganja for two times. Also stated the accused 1, 3 and 4 that is Parimaladoss



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Manikandan, Jagen respectively had stated that they brought the ganja from Andhar Pradesh and changed the goods in another vehicle at Viralimalali. The relevant portion is extracted hereunder:

“நைனா முகமது தனது வாக்குமூலத்தில் பரிமளாதாஷ் உடன் சேர்ந்து கஞ்சா கடத்தல் தொழில் செய்து வருவதாகவும் இதற்கு முன்பாக 2 முறை இதே மாதிரி கஞ்சா கடத்தியதாகவும் தகவல் தெரிவித்தார். மேலும் மணிகண்டன், ஜெகன், பரிமளாதாஷ் ஆகிய அனைவரும் தங்களது வாக்குமூலத்தில் கைப்பற்றப்பட்ட கஞ்சாவை ஆந்திராவிலிருந்து கடத்தி வந்து விராலிமலை சுங்கசாவடிக்கு அருகில் வைத்து டி.என்.81 E 6961 என்ற எண் கொண்ட மகேந்திரா பொலிசோ பிக்கப் வண்டியில் ஏற்றி அதிராம்பட்டினம் வழியாக இலங்கைக்கு கடத்த இருப்பதாக கூறி ஒப்புக்கொண்டனர். ”

Even in the chief examination nothing had been stated against the Accused No. 5, therefore this Court is inclined to consider bail. Further it is seen based on the confession of the co-accused the petitioner was charged.

11. The Hon'ble Supreme Court in *Karan Talwar vs. the State of Tamil Nadu* in SLP (Crl.) No.10736 of 2022 has held that mere confession of the co-accused by itself cannot be the reason for his implicating in the crime and discharged the accused from the NDPS case. The relevant portion is extracted



hereunder:

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*“10. As is evident from the said Section, the alleged offence is consumption of narcotic drug or psychotropic substance other than those specified in or under clause (a) of [Section 27](#), NDPS Act, and therefore, the question is whether any material is available to charge the appellant thereunder. The contention of the appellant is that he has been arraigned as accused No.13 based on the confession statement of co-accused viz., accused No.1. **Certainly, in the absence of any other material on record to connect the appellant with the crime, the confession statement of the co-accused by itself cannot be the reason for his implication in the crime.** This view has been fortified by the law laid down in *Suresh Budharmal Kalani Vs. State of Maharashtra*, wherein it was stated that a co-accused’s confession containing incriminating matter against a person would not by itself suffice to frame charge against him. The materials on record would reveal that the investigating agency had (1998) 7 SCC 337; 1998 INSC 364 not subjected him to medical examination and instead, going by complaint Witness No.23, he smelt the accused. The less said the better and we do not think it necessary to comment upon adoption of such a course. We need only to say that even if he tendered such evidence, it would not help the prosecution in anyway. There is absolutely no case that any recovery of contraband was recovered from the appellant. As regards the confession statement of the appellant in view of [Section 25](#) of the Indian Evidence Act, 1872 there can be no doubt with respect to the fact that it is inadmissible in evidence. In this context it is worthy to refer to the decision of this Court in [Ram Singh v. Central Bureau of Narcotics](#)⁴. In [the said decision](#), this Court held that [Section 25](#) of the Indian Evidence Act would make confessional statement of accused before police inadmissible in evidence and it could not be brought on record by prosecution to obtain conviction. Shortly stated, except the confessional statement of co-accused No.1 there is absolutely no material*



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available on record against the appellant.”

12. In ***Surinder Kumar Khanna Vs. Intelligence Officer, the Directorate of Revenue Intelligence*** reported in ***2018 8 SCC 271*** it has been held as under:

“12. The law [laid down in *Kashmira Singh*](#) (supra) was approved by a Constitution Bench of this Court in [*Hari Charan Kurmi and Jogia Hajam v. State of Bihar*](#)¹¹ wherein it was observed:

“As we have already indicated, this question has been considered on several occasions by judicial decisions and it has been consistently held that a confession cannot be treated as evidence which is substantive evidence against a co-accused person. In dealing with a criminal case where the prosecution relies upon the confession of one accused person against another accused person, the proper approach to adopt is to consider the other evidence against such an accused person, and if the said evidence appears to be satisfactory and the court is inclined to hold that the said evidence may sustain the charge framed against the said accused person, the court turns to the confession with a view to assure itself that the conclusion which it is inclined to draw from the other evidence is right. As was observed by Sir Lawrence Jenkins in [*Emperor v. Lalit Mohan Chuckerburty*](#) a confession can only be used to “lend assurance to other evidence against a co-accused”. In *re Periyaswami Moopan Reilly. J.*, observed that the provision of [Section 30](#) goes not further than this:

“where there is evidence against the co-accused sufficient, if believed, to support his conviction, then the kind of confession



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described in [Section 30](#) may be thrown into the scale as an additional reason for believing that evidence”.

In Bhuboni Sahu v. King the Privy Council has expressed the same view. Sir John Beaumont who spoke for the Board, observed that

“a confession of a co-accused is obviously evidence of a very weak type. It does not indeed come within the definition of “evidence” contained in [Section 3](#) of the Evidence Act. It is not required to be given on oath, nor in the presence of the accused, and it cannot be tested by cross-examination. It is a much weaker type of evidence than the evidence of an approver, which is not subject to any of those infirmities. [Section 30](#), however, provides that the court may take the confession into consideration and thereby, no doubt, makes it evidence on which the court may act; but the section does not say that the confession is to amount to proof. Clearly there must be other evidence. The confession is only one element in the consideration of all the facts proved the case; it can be put into the scale and weighed with the other evidence”.

It would be noticed that as a result of the provisions contained in [Section 30](#), the confession has no doubt to be regarded as amounting to evidence in a general way, because whatever is considered by the court is evidence; circumstances which are considered by the court as well as probabilities do amount to evidence in that generic sense. Thus, though confession may be regarded as evidence in that generic sense because of the provisions of [Section 30](#), the fact remains that it is not



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evidence as defined by [Section 3](#) of the Act. The result, therefore, is that in dealing with a case against an accused person, the court cannot start with the confession of a co-accused person; it must begin with other evidence adduced by the prosecution and after it has formed its opinion with regard to the quality and effect of the said evidence, then it is permissible to turn to the confession in order to receive assurance to the conclusion of guilt which the judicial mind is about to reach on the said other evidence. That, briefly stated, is the effect of the provisions contained in [Section 30](#). The same view has been expressed by this Court in [Kashmira Singh v. State of Madhya Pradesh](#) where the decision of the Privy Council in [Bhuboni Sahu](#) case has been cited with approval.”

13. The law so laid down has always been followed by this Court except in cases where there is a specific provision in law making such confession of a co-accused admissible against another accused.”

In the present case as stated supra the petitioner was not in possession of the contraband and it is based on the confession by the co-accused the petitioner was implicated. Hence, the first test of ‘chance of conviction’ is favoring the petitioner. Therefore, this Court is of the considered opinion that the petitioner deserves to be considered for bail.

13. Further it is seen that the petitioner had suffered mental stress due to



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death of his son on 11.09.2024 and the petitioner wife is also undergoing mental stress. Further there is no previous case against the petitioner. Hence the second test of “likely to commit the same offence” is not there. Therefore, petitioner is entitled to be considered for the bail.

14. For the reasons stated supra, this Court is of the considered opinion that the petitioner is entitled to bail and accordingly the same is granted with certain conditions.

15. Accordingly, the petitioner is 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 Special 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/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;
- b. the petitioner shall report before the Trial Court daily at 10.30 a.m., for two weeks and thereafter, at 10.30 a.m., once in a week and on all date of hearing until further orders;
- c. the petitioner shall not tamper with evidence or witness;



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- d. the petitioner shall not abscond during 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 Section 269 of BNS.

16. Accordingly, this Criminal Original Petition for bail is allowed.

TMG

23.10.2025
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- 1.The Intelligence Officer,
Narcotics Control Bureau,
Madurai Sub Zonal, Madurai.
- 2.The Special Public Prosecutor for NCB cases
Madurai Bench of Madras High Court,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench Of Madras High Court,
Madurai.
- 4.District Jail,
Pudukkottai.
5. Special Court for EC and NDPS Act cases,
Pudukkottai.



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S.SRIMATHY,J

TMG

ORDER
IN
CRL OP(MD) No.17189 of 2023

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