



CRL OP(MD). No.22073 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 07/01/2025

PRESENT

The HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL OP(MD). No.22073 of 2024

Praveenkumar

... Petitioner/ Accused No.5

Vs

The Inspector of Police,
Madurai PEW Police Station.
(Crime No.648 of 2024)

... Respondent/Complainant

For Petitioner : Mr.P.Thanga Prithvi Rajan, Advocate.

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

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :-

For Bail in Crime No.648 of 2024 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner / Accused No.5, who was arrested and remanded to judicial custody on 11.06.2024 for the offences under Sections 8(c), 20(b)(ii)(C), 25 and 29(1) of the NDPS Act, 1985 in Crime No.648 of 2024 on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that the Sub-Inspector of Police received a



CRL OP(MD). No.22073 of 2024

WEB COPY

secret information on 27.05.2024 at about 13.00 hours that the accused persons are travelling in a car from Andhra Pradesh after purchasing 'Ganja'. This information was recorded and informed to the superior officer in writing and after obtaining permission and recording the same in the General Diary, the police party proceeded to the spot. The police party surrounded the car around 15.00 hours. The inmates of the car were apprised about their rights available under the Act. On search, the police recovered 22 parcels kept in a travel bag and a shopping bag. On further analysis, it was found that it was ganja and the same was weighed and found to be 21.300 kilograms. A1 to A3 were arrested. A report was submitted under Section 57 of the Act and the case was registered in Crime No.648 of 2024 on 27.05.2024 at about 20.30 hours.

3. Based on the confession of A1 to A3, A4 was arrested on 28.05.2024 and 1.5 kilograms of ganja was seized. Similarly, A6 was arrested on 11.06.2024 and 500 grams of ganja was seized. The specific case of the prosecution is that the possession of ganja by the respective accused persons was a concerted effort and in furtherance of a common intention. There are totally seven accused persons in this case and out of the seven accused persons, six accused persons have been arrested and A7, who is said to have made the arrangements to sell the ganja from Andhra Pradesh is said to be absconding. The petitioner has been arrayed as Accused No.5 in this case and he



CRL OP(MD). No.22073 of 2024

is said to have been in close contact with Accused No.1 and there were phone calls between Accused No.1 and the petitioner. A counter affidavit has been filed by the respondent and the relevant portions are extracted hereunder:

“7. I submit that the petitioner herein had close contact with the first accused and only to distribute the contraband, the first accused along with the other accused went to Andhra Pradesh and procured the contraband. There are materials in the form of call detail records to establish that the petitioner had close contact with the first accused and during the relevant point of time for nearly about 99 times.

8. I submit that the petitioner herein has four previous cases. Two under provisions of IPC and two under the provisions of NDPS.

(i) Chennai Central Railway PS Cr. NO. of 2022-8 (c) r/w 20(b)(ii)(B) of NDPS Act,

(ii) Madurai Karimedu PS Cr. No. 262 of 2024-8 (c) r/w 20(b)(ii) (B) of NDPS Act

Therefore, the petitioner failed to satisfy the twin conditions contemplated under section 37 of NDPS Act and as such he is not entitled for bail. This bail petition is ought to be dismissed on merits by considering his previous cases. Further the CDR details establish that there was frequent



CRL OP(MD). No.22073 of 2024

WEB COPY

contact between the petitioner and A1 which sums upto 99 times. Further, under section 35 of the NDPS Act, any prosecution of an offence under this Act which requires a culpable mental state of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charge as an offence in that prosecution. Here "culpable mental state" includes intention motive and knowledge of a fact and belief in, or reason to believe. a fact."

4. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

5. The main objection raised by the learned Additional Public Prosecutor is that there are two previous cases against the petitioner and during the pendency of those two cases, yet another crime has been committed by the petitioner. Therefore, it was contended that the petitioner cannot taken advantage of the bail granted to the co-accused by this Court. Hence, the learned Additional Public Prosecutor vehemently opposed the grant of bail to the petitioner.

6. The learned counsel appearing for the petitioner submitted that the petitioner has been roped in this case only based on the confession of Accused No.1 and that there is absolutely no recovery from the petitioner. He further submitted that this



CRL OP(MD). No.22073 of 2024

petitioner was in judicial custody during the relevant point of time in an other case and he was remanded in this case through PT warrant on 03.06.2024. It was contended that the petitioner has been granted bail in the other case and there are sufficient grounds for the petitioner satisfying twin conditions under Section 37 of the NDPS Act. Hence, it was prayed that the petitioner may be enlarged on bail subject to any condition.

7. In the considered view of this Court, this petitioner has been arrayed as an accused based on the confession of the co-accused and the phone calls with Accused No.1. When the petitioner was arrested in this case, he was already in judicial custody in other cases and hence, the petitioner was remanded through PT warrant on 03.06.2024.

8. The reasoning that was given by this Court while granting bail to the co-accused viz., Accused Nos.1, 2, 4 and 6 in CrI.O.P.(MD).Nos.18999, 19356, 19473 and 19610 of 2024 dated 06.12.2024 will equally apply to the petitioner also. Insofar as the previous cases are concerned, the petitioner was made as an accused in those cases on the ground that he possessed in-between quantity. Hence, this Court finds that the petitioner has an arguable case. This Court is inclined to grant bail to the petitioner subject to the following conditions.

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



CRL OP(MD). No.22073 of 2024

WEB COPY

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 Principal Special Judge for Trial of NDPS Act Cases, Madurai 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 learned Principal Special Judge for Trial of NDPS Act Cases, Madurai 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



CRL OP(MD). No.22073 of 2024

of Kerala [(2005)AIR SCW 5560].

WEB COPY

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of BNS, 2023.

sd/-
07/01/2025

/ TRUE COPY /

07/01/2025

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

TSG

TO

- 1 THE JUDGE, PRINCIPAL SPECIAL JUDGE FOR TRIAL OF NDPS ACT CASES, MADURAI.
- 2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE, MADURAI PEW POLICE STATION, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN

CRL OP(MD) No.22073 of 2024
Date :07/01/2025

RS/IT/SAR-(07.01.2025) 7P 5C
Madurai Bench of Madras High Court is issuing
certified copies in this format from 17/07/2023