



CRL.M.P.(MD).No.14361 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2025

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THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.M.P.(MD).No.14361 of 2024

in

CRL.O.P.(MD).No.2821 of 2024

The State of Tamil Nadu rep by
The Inspector of Police,
NIBCID,
Thoothukudi District.
(Crime No.14 of 2022)

... Petitioner / Respondent / Complainant

Vs.

P.Chinnaraj

... Respondent / Petitioner / Accused No.5

PRAYER :- The Criminal Miscellaneous Petition filed under Section 483(b) of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 praying to cancel the bail granted to the respondent by this Court in Crl.O.P.(MD) No.2821 of 2024 on 23.02.2024.

For Petitioner : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

For Respondent : Mr.M.Jegadeespondian,
Advocate

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner on 20.12.2024 under Section 483(b) of the Bharatiya Nagarik Suraksha Sanhita (BNSS),



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2023 praying to cancel the bail granted to the respondent by this Court in Crl.O.P.

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(MD) No.2821 of 2024 on 23.02.2024.

2. The case of the prosecution is that on 15.07.2022, at about 08:30 p.m., based on secret information, the petitioner-police conducted a raid behind Bharath Petroleum near Pudhur Pandiyapuram Toll Plaza, where the accused persons had parked their vehicles bearing Registration Nos.TN-84-M-4213 (Eicher) and TN-19-F-5555 (red-coloured Volkswagen). Upon seeing the police party, they attempted to escape. However, the petitioner-police apprehended A1 on the spot and interrogated him. Upon inquiry, it was found that the respondent and the other accused persons were in joint possession of contraband (ganja) weighing 437 kg. Hence the case.

3. Mr.R.Meenakshi Sundaram, the learned Additional Public Prosecutor appearing for the petitioner-police, submits that bail was granted to the respondent by this Court in Crl.O.P.(MD) No.2821 of 2024 on 23.02.2024 on the grounds that the respondent was not present at the scene of occurrence, that the respondent had been in incarceration for a longer period, and that the investigation has been completed and charge sheet has been filed. The relevant portions are extracted hereunder:-

“6.Considering the facts and circumstances of the case and also considering the period of incarceration suffered by the petitioner and co-accused was enlarged on bail by this Court and Charge Sheet is filed



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after completing the investigation, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, this Criminal Original Petition is ordered and the petitioner is ordered to be released on bail on his 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 Special Court for EC & 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 is directed to appear before the concerned trial Court on each and every hearing date without fail;

(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) after the seizure procedure is over, the concerned Magistrate and the respondent Police are directed to comply with the guidelines enumerated under section 52(A) of NDPS Act and as per the guidelines



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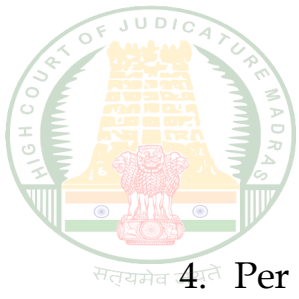
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issued by the Hon'ble Supreme Court of India in the case of Union of India Vs. Mohanlal and Another ((2016) 3 SCC 379).

(f) 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]; and;

(g)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC”

He further submits that although the respondent was not present at the scene of occurrence, he is the prime accused who instructed the other accused persons to transport the contraband using his vehicle and was actively involved in drug trafficking. The first and second bail petitions filed by the respondent were dismissed. Without any change in circumstances and without recording a finding regarding the twin conditions under Section 37 of the NDPS Act, bail was erroneously granted in the third bail petition in Crl.O.P. (MD) No. 2821 of 2024 on 23.02.2024. Hence, the order granting bail to the respondent is liable to be set aside. Accordingly, he prays to allow this petition.



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4. Per contra, Mr.M.Jegadeesandian, learned counsel appearing for the respondent, submits that the respondent has been falsely implicated in this case and has been attending trial in C.C.No 41 of 2023 on the file of the Special Court for Trial of Cases under E.C. & NDPS, Madurai, without any default. He further submits that the respondent initially filed two bail applications, both of which were dismissed by this Court. Thereafter, the respondent filed another bail application before this Court in CrI.O.P. (MD) No.2821 of 2024. After hearing both sides, this Court granted bail to the respondent with conditions. He further submits that the respondent has been complying with all conditions imposed by this Court without any default. It is pertinent to mention that the respondent has no prior criminal antecedents and has not been involved in any offence while on bail. However, the police have filed the present application for cancellation of bail without any valid basis. This Court has repeatedly held that the conduct of an accused person after being enlarged on bail must be considered while deciding an application for cancellation of bail. Furthermore, a bail cancellation application can be entertained only when there are supervening circumstances indicating misconduct by the accused while on bail. The incidents alleged by the petitioner-police occurred before the respondent was granted bail and, therefore, cannot be considered as grounds for its cancellation. In these circumstances, it is just and necessary that the present application be dismissed.



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Accordingly, he prays to dismiss the petition.

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5. This Court has considered the submissions made on either side and perused all the materials available on record.

6. On perusal of the records, it appears that the respondent has not violated any of the conditions imposed after being released on bail. Although the petitioner has option to file an appeal or a review petition, they have chosen to file this bail cancellation petition against the respondent. Furthermore, no trial has commenced, and the proceedings are progressing at a slow pace. The petitioner has not taken any effective steps to expedite the trial. Therefore, this Court finds no grounds to interfere with the order passed in CrI.O.P. (MD) No.2821 of 2024 on 23.02.2024. This Court finds no infirmity or illegality in the said order. Hence, this petition lacks merit and deserves to be dismissed.

7. With the above observations, this Criminal Miscellaneous Petition is dismissed.

sd/-
01/04/2025

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02/04/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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1 THE SPECIAL JUDGE FOR TRIAL OF CASES UNDER EC & NDPS ACT CASES,
MADURAI.

2 THE INSPECTOR OF POLICE,
NIBCID,
THOOTHUKUDI DISTRICT.

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

ORDER
IN
CRL MP(MD) No.14361 of 2024
IN
CRL OP(MD) No.2821 of 2024
Date :01/04/2025

SA/SAR. /02.04.2025/7P/4C

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