



CRL.M.P.(MD).No.14363 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.14363 of 2024

in

CRL.O.P.(MD).No.11341 of 2023

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.2

PRAYER :- The Criminal Miscellaneous Petition filed under Section 483(b) of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 praying to cancel the bail granted by this Court to the respondent in Crl.O.P.(MD) No.11341 of 2023 on 30.06.2023.

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

For Respondent : Mr.G.Prabhu Rajadurai,  
Advocate

ORDER

<https://www.mhc.tn.gov.in/judis> This Criminal Miscellaneous Petition has been filed by the petitioner on



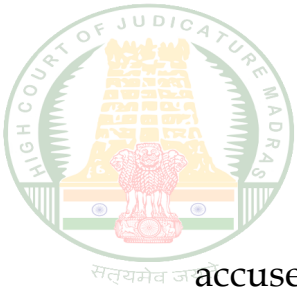
CRL.M.P.(MD).No.14363 of 2024

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 by this Court to the respondent in Crl.O.P.  
(MD) No.11341 of 2023 on 30.06.2023.

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 by this Court to the respondent in Crl.O.P.(MD).No.11341 of 2023 on 30.06.2023 on the ground that except for the confession statement, no other material is available to connect the respondent herein to the crime. The relevant portion is extracted hereunder:

“4. It is seen that there are two accused, in which, the petitioner is arrayed as A2. The petitioner has been implicated as accused only on the confession of A1. According to the case of the prosecution, the first



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accused found in possession of 437 Kgs of Ganja. Except the confession statement, no other material is available to connect the petitioner as accused along with the first accused. That apart, as against the petitioner, non bailable warrant was issued and on direction, the petitioner surrendered. However, recall petition was dismissed and as such, the petitioner remanded to judicial custody. Therefore, the petitioner make out a prima facie case in order to satisfy the twin conditions as contemplated under Section 37 of the NDPS Act.

5.Considering the above facts and circumstances, of the case and also the period of incarceration this court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute 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 trial of Cases under EC & NDPS Act Cases, Madurai, and on further conditions that:

[b] 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.



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[c] the petitioner shall report before the trial Court daily at 10.30 A.M., until further orders.

[d] the petitioner shall not commit any offences of similar nature.

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

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

[g] On breach of any of the aforesaid conditions, the learned Judicial 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]. [h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC."

However, the petitioner's claim of establishing a prima facie case to satisfy the twin conditions contemplated under Section 37 of the NDPS Act is erroneous. The respondent had followed the vehicle and fled the scene upon seeing the police. Call detail records substantiate that the respondent followed the vehicle transporting



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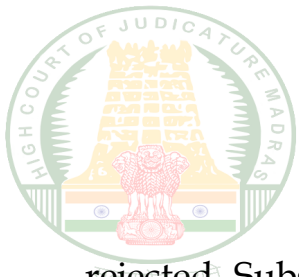
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contraband. This case involves the recovery of a substantial quantity of contraband intended for transporting to Sri Lanka. He further submits that the surrender of the accused before the court, following the dismissal of his anticipatory bail, does not negate the applicability of Section 37 of the NDPS Act, which was not duly considered at the time of granting bail. Accordingly, he prays to allow this petition.

4. Per contra, Mr.G.Prabhu Rajadurai, learned counsel appearing for the respondent, submits that the respondent has been falsely implicated in this case and that, at the relevant time, he was taking care of his 10-month-old grandson, who suffered severe seizures. As a result, the child was admitted and treated at the Government Hospital, Tuticorin. Unfortunately, the respondent's grandson passed away on 16.07.2022, the date of his arrest. Hence, the respondent has no connection whatsoever with Accused No. 1 and the alleged incidents.

4.1. He further submits that the vehicle bearing Registration No.TN-19-F-5555, in which the respondent is alleged to have been travelling, does not belong to him. The mere presence of traces of his cellphone signal in the locality cannot be a ground for his implication. Since the place of occurrence is a highway, public movement is common. The respondent's contact with Accused No. 3 was solely related to a bulk purchase transaction.

4.2. He further submits that the respondent's anticipatory bail applications were



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rejected. Subsequently, upon the issuance of a Non-Bailable Warrant, the respondent surrendered on 05.09.2022. In the meantime, a charge sheet was filed and taken on record in C.C.No.41 of 2023 before the Special Court for Trial of Cases under E.C. & NDPS, Madurai. The respondent has been attending trial without any default. Thereafter, the respondent filed a bail petition before the Special Court for Trial of Cases under E.C. & NDPS, Madurai, which was dismissed. He then filed another bail application before this Court in CrI.O.P. (MD) No. 11341 of 2023. Upon satisfying the twin conditions provided under Section 37 of the NDPS Act, 1985, this Court, by an order dated 30.06.2023, granted bail to the respondent with conditions. The respondent has been complying with all conditions imposed by this Court without any default till date.

4.3. He further submits that the respondent has no prior criminal antecedents and has not been involved in any offence while on bail. However, the petitioner has 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 occurred before the accused was granted bail and,



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therefore, cannot be considered as grounds for its cancellation. In these  
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circumstances, it is just and necessary that the present application be dismissed.  
Accordingly, he prays to dismiss the petition.

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.11341 of 2023 on 30.06.2023. This Court finds no infirmity or illegality in the said order. Hence, this petition lacks merit and deserves to be dismissed.

7. Accordingly, the 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.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate ( SR-3750[I] dated 02/04/2025 )

ORDER IN  
CRL MP(MD) No.14363 of 2024  
IN  
CRL OP(MD) No.11341 of 2023  
Date :01/04/2025

SA/SAR. /02.04.2025/8P/5C

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