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Crl.R.C.No.173 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-01-2026

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.173 of 2026

Sunil @ Jayaprakash

...Petitioner

Vs.

The State represented by,
The Inspector of Police,
R-3 Ashok Nagar Police Station,
Chennai

...Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, 1973 and Section 438 r/w 442 of Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order dated 05.12.2025 in Crl.M.P.No.5382 of 2025 in C.C.No.396 of 2025 on the file of the II Additional Special Judge EC and NDPS Court at Chennai.

For Petitioner(s): Mr.S.Kasirajan

For Respondent(s): Mr.R.Vinothraja
Government Advocate (Crl. Side)

ORDER

The revision challenges the dismissal of the discharge petition filed by the petitioner, who is facing prosecution under Section 8(c) r/w 22(c) and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*hereinafter referred*



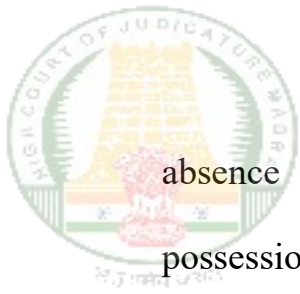
to as NDPS Act).

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2. It is the case of the prosecution that the petitioner along with two others were found in possession of a total quantity of 59 grams of methamphetamine and that the petitioner was found in possession of 11 grams and thus committed the aforesaid offence.

3. The petitioner sought for discharge of the offence under Section 22(c) of the NDPS Act by claiming that, even if the possession of the petitioner is admitted to be true, the quantity possessed by the petitioner would amount to an intermediate quantity and the quantity possessed by the other accused cannot be clubbed so as to make it a commercial quantity. He further claimed that no evidence has been adduced by the prosecution to show that the petitioner had conspired with the other accused. The trial Court dismissed the said petition by observing that all the three accused were arrested at the same time and whether it is the joint possession or an individual possession cannot be adjudicated at the stage of charge framing and that the question of whether there was a conspiracy has to be considered only during the course of the trial.

4. The learned counsel for the petitioner would submit that admittedly the petitioner was found in possession of 11 grams of methamphetamine; that in the



absence of any evidence put forth to show joint possession and that the possession was pursuant to a conspiracy between the three accused, the petitioner cannot be charged for the offence under Section 22(c) and at best, he can be charged for the offence under Section 22(b) of NDPS Act.

5. The Government Advocate (Crl. Side) for the respondent, *per contra*, would submit that all the accused were arrested at the same place and that the total quantity seized was 59 grams of methamphetamine, which is a commercial quantity; that it is for the trial Court to determine whether the petitioner was in joint possession of commercial quantity or the petitioner was in possession of intermediate quantity.

6. In view of the factual dispute, this Court finds that the trial Court was justified in rejecting the said petition as the Trial Court at this stage cannot hold that there was no conspiracy or that there was no joint possession. It is for the Trial Court to determine the said question in the trial after considering the evidence adduced. Therefore, this Court is not inclined to entertain this petition. However, the petitioner is at liberty to raise all his defence before the trial Court.

7. With the above observations, this Criminal Revision Case is dismissed.



29-01-2026

MAC

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

SUNDER MOHAN J.

Mac

To

1. The II Additional Special Judge EC and NDPS Court at Chennai.

2. The Inspector of Police,
R-3 Ashok Nagar Police Station,
Chennai

3. The Public Prosecutor,
High Court, Madras

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