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CRL OP No. 2374 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 27-04-2026

PRONOUNCED ON: 13-05-2026

CORAM

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

CRL OP No. 2374 of 2026

AND

CRL OP NO. 2002 OF 2026

1. Shuhelbabu
S/o. Babu,
No.4/606, Kittappaguttai, Basthi,
Hosur, Krishnagiri,
Krishnagiri-635109.

Petitioner(s)

Vs

1. State rep. By
The Inspector of Police
Manavala Nagar Police Station,
Tiruvallur.
Crime No.201 of 2025

Respondent(s)

CRL OP No. 2002 of 2026

1. Mohammed Abrath
S/o. Anvar Saleem,
No.7/76C, Mosque Street, Thittuvilai,
Bhoothapandy, Thovala,
Kanyakumari District.

Petitioner(s)

Vs

1. The State Rep by its
Inspector of Police,



CRL OP No. 2374 of 2026

B-5, Manavala Nagar Police Station,
Thiruvallur District.
(Crime No. 201 of 2025)

Respondent(s)

COMMON PRAYER

Criminal Original Petitions filed under Section 483 of BNSS of 2023, praying to release the Petitioners on bail pending in Crime No.201 of 2025 on the file of the respondent/police and thus render justice.

For Petitioner(s):	Mr.M.P.Saravanan
in Crl.OP.No.2374/2026	
For Petitioner(s):	Mr.M.Senthil Kumar
in Crl.OP.No.2002/2026	
For Respondent(s)	Mr.S.Vinoth Kumar,
in both Crl.OPs.:	Govt.Advocate (crl Side)

COMMON ORDER

The petitioner in Crl.OP.No.2374 of 2026 [Shuhel Babu] is A7. He was remanded to judicial custody on 23.10.2025 and that there was a recovery of 8 Kilograms of Ganja and 10 grams of Methamphetamine from him. The petitioner in Crl.OP.No.2002 of 2026 [Mohammed Abrath] is arrayed as the 4th accused and he was remanded to judicial custody on 10.11.2025. From him and A5, there was a total recovery of 75 grams of Methamphetamine.

2.According to the prosecution case, on 23.10.2025 at about 20.00 hours, when Tr.G.Parthiban, Sub Inspector of Police was in station duty, on receiving



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secret information, he intercepted Sibiraj [A1]. While conducting enquiry, he was found in possession of 54 Grams of Methamphetamine and the same was seized from him. Based upon his confession, the prosecution effected a discovery of fact of purchase of said contraband from one Micheal Nawas Nambi/A2. The further prosecution case is that based upon the confession statement of A1, Micheal Nawas Nambi/A2, Bende/A3, Mohammad Afrat/A4, Pratap/A5, Matinahamed/A6 and Shuel Babu/A7 were arrested on 28.10.2025, 06.11.2025, 09.11.2025, 16.11.2025 and 04.12.2025 respectively. There was a commercial quantity of recovery from Sibiraj/A1, Mohammed Afrat/A4 and Matinahamed/A6 and the intermediate quantity of contraband was recovered from Shuel Babu/A7 and Ifaniyi Michael/A8. According to the prosecution, the total recovery of contraband is, 199 grams of Methamphetamine, 40 MDMA Tablets, 39 grams of white crystal and 8 kilograms of Ganja.

3.The main contention put forth by the learned counsel for the petitioner in Crl.OP.No.2002 of 2026 is that, the petitioner is a college student and that there are no recovery at all and the alleged time of arrest is evidently false in view of the CCTV footages. It is also his contention that he was not furnished with grounds of arrest and that the co-accused (A6) was released on bail by this



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Court in Crl.OP.No.2660 of 2026 dated 27.02.2026. According to the prosecution case, from A6, commercial quantity of contraband was recovered. In spite of such fact, since no grounds of arrest furnished to him, he was released on bail. Therefore, this petitioner, being a co-accused is seeking for parity.

4.It is also the contention of the learned counsel for the petitioner that, by virtue of the judgment of the Hon'ble Supreme Court in ***Shabna Abdulla Vs. Union of India and others*** reported in ***2024 SCC OnLine SC 2057***, the Bench of the High Court should have followed the view taken in the judgment of the another co-equal Bench of the same High Court. Basing reliance upon the above precedent would contend that, when the grounds of detention and the grounds of challenge are identical in the Crl.OP.No.2660 of 2026 dated 27.02.2026, this Bench has to follow the view of the earlier Bench to the effect that the grounds of arrest furnished did not contain required particulars. The learned counsel would further submit that since there is a finding by the Coordinate Bench of this Court regarding inadequacy of grounds of arrest, the only option available now for this Bench is to refer the matter to a larger Bench.



5.A similar contention was raised by the learned counsel for the petitioner in Crl.OP.No.2374 of 2026. He also relies upon the judgment of the Hon'ble Supreme Court in ***SLP (Crl).No.3327 of 2026 [Dr.Rajinder Rajan Vs. Union of India and another]*** and would contend that a template format of arrest memo cannot be equated with that of the grounds of arrest. The learned counsel would submit that he has been remanded to judicial custody since 23.10.2025 and that the respondent police did not follow the mandatory provision and the present case is foisted against the petitioner.

6.The said contention was stoutly objected by the learned Government Advocate (Crl.Side) and would submit that in both the cases, the grounds of arrest were given to the petitioners. In respect of A7, the arrest is prior to ***Mihir Rajesh's*** case [***Mihir Rajesh Shah Vs. State of Maharashtra*** reported in (2026) ***1 SCC 500***] and the arrest of A4 is subsequent to ***Mihir Rajesh Shah's*** case [cited supra]. However, would submit that the judgment of the learned Single Judge has not considered the acknowledgment given by the accused and therefore, the finding regarding the sufficiency of grounds of arrest is not a binding precedent and the same was only factual observation qua *obiter dicta*. Hence, would contend that these petitions are liable to be dismissed.



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7.I have given my anxious consideration to either side submissions.

8.As rightly contended by the learned counsel for the petitioners, as far as A7 viz., the petitioner in Crl.OP.No.2374 of 2026, the arrest is prior to **Mihir Rajesh's** [cited supra]. Therefore, the defence of grounds of arrest is of no use and the Hon'ble Supreme Court in **Mihir Rajesh's case** [cited supra] held that the above judgment is applicable prospectively i.e., on and after 06.11.2025. According to the prosecution, the recovery from him is intermediate quantity viz., 8 kilograms of Ganja and 10 grams of Methamphetamine.

9.As far as the petitioner in Crl.OP.No.2002 of 2006 (A4) is concerned, though it was a commercial quantity of contraband, the main ground urged by the petitioner is regarding the non-supply of grounds of arrest. His (A4) arrest is subsequent to **Mihir Rajesh's** case [cited supra]. In this regard, it is appropriate to refer the judgment relied by the learned counsel for the petitioner in Crl.OP.No.2660 of 2025. While perusing the said judgment, the learned Single Judge has scanned the arrest memo. Coming to the grounds of arrest jurisprudence, the same is mandated so as to enable the accused to defend the bail application and his remand effectively. In the present case, this Court perused the grounds of arrest of these petitioners, where there is a reference as



to why he was arrested and under what Section he was arrested. It is relevant to refer that the possession of the contraband by the petitioner at the time of arrest would also indicate the reason for his arrest. This aspect was ratiocinated by the Bombay High Court in **Mihir Rajesh's** case and later approved by the Hon'ble Supreme Court.

10. Apart from that, the concerned accused has also acknowledged the grounds for his arrest. Having said so and having stated the reason for such arrest, this Court is of the view that the petitioner was furnished with proper grounds of arrest.

11. Though the learned counsel relied upon the judgment of the Hon'ble Supreme Court in respect of the binding precedents, the issue in the present case regarding factual aspect which comes within *obiter dicta*. In this regard, it is relevant to refer the judgment of the Hon'ble Supreme Court in **Dalbir Singh and others Vs. State of Punjab** reported in (1979) 3 SCC 745. The relevant paragraph is paragraph 22 and the same is extracted hereunder:-

“22. With greatest respect, the majority decision in Rajendra Prasad case does not lay down any legal principle of general applicability. A decision on a question of sentence depending upon the facts and circumstances of a particular case, can never be regarded as a binding precedent, much less “law declared” within



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the meaning of Article 141 of the Constitution so as to bind all courts within the territory of India. According to the well-settled theory of precedents every decision contains three basic ingredients:

“(i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct or perceptible facts;

(ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and

(iii) judgment based on the combined effect of (i) and (ii) above.”

*For the purposes of the parties themselves and their privies, ingredient (iii) is the material element in the decision for it determines finally their rights and liabilities in relation to the subject-matter of the action. It is the judgment that estops the parties from reopening the dispute. However, for the purpose of the doctrine of precedents, ingredient (ii) is the vital element in the decision. This indeed is the ratio decidendi. [R.J. Walker & M.G. Walker : The English Legal System. Butterworths, 1972, 3rd Edn., pp. 123-24] **It is not everything said by a judge when giving judgment that constitutes a precedent.** The only thing in a judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi. In the leading case of *Qualcast (Wolverhampton) Ltd. v. Haynes* [LR 1959 AC 743 : (1959) 2 All ER 38] it was laid down that the ratio decidendi may be defined as a statement of law applied to the legal problems raised by the facts as found, upon which the decision is based. **The other two elements in the decision are not precedents. The judgment is not binding** (except directly on the parties themselves), **nor are the findings of facts. This means that even where the direct facts of an earlier case appear to be identical to those of the case before the court, the judge is not bound to draw the same inference as drawn in the earlier case.”***



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12. It is also relevant to extract paragraph 25 of the judgment in ***Dr. Shah Faesal and others Vs. Union of India and another*** reported in (2020) 4 SCC 1.

“25. In this line, further enquiry requires us to examine, to what extent does a ruling of coordinate Bench bind the subsequent Bench. A judgment of this Court can be distinguished into two parts : ratio decidendi and the obiter dictum. The ratio is the basic essence of the judgment, and the same must be understood in the context of the relevant facts of the case. The principal difference between the ratio of a case, and the obiter, has been elucidated by a three-Judge Bench decision of this Court in Union of India v. Dhanwanti Devi [Union of India v. Dhanwanti Devi, (1996) 6 SCC 44] wherein this Court held that : (SCC pp. 51-52, para 9)

“9. ... It is not everything said by a Judge while giving judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi. ... A decision is only an authority for what it actually decides. ... The concrete decision alone is binding between the parties to it, but it is the abstract ratio decidendi, ascertained on a consideration of the judgment in relation to the subject-matter of the decision, which alone has the force of law and which, when it is clear what it was, is binding. It is only the principle laid down in the judgment that is binding law under Article 141 of the Constitution.”



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From the above precedents, what emerges is, the *obiter dicta* of the earlier Division Bench has no precedent value. Further, one small variance in fact will give world of difference. In the present case, the respondent has given proper detail in the grounds of arrest, qua as to the reason for their arrest, and such ground was also acknowledged by the petitioners herein. Hence, the argument advanced by both the petitioners regarding the inadequacy of grounds of arrest is liable to be rejected.

13. Therefore, this Court is of the firm view that the parity sought by the petitioner also liable to be rejected. As a matter of fact, the quantity recovered from the petitioner is a commercial quantity and there are no grounds to overcome the rigour under Section 37 of NDPS Act. Hence, this Court finds no merits in these petitions.

14. Accordingly, both the Criminal Original Petitions are dismissed.

13-05-2026

Index: Yes/No
Speaking/Non-speaking order
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Neutral Citation: Yes/No
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To

1. The Inspector of Police
Manavala Nagar Police Station,
Tiruvallur.

2. The Public Prosecutor,
High Court, Chennai.



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C.KUMARAPPAN J.

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**Pre-Delivery Orders in
CRL OP Nos.2374 &
2002 of 2026**

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