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CRL OP No. 3712 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-04-2026

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

CRL OP No. 3712 of 2026

1. Sahin Miah
S/o. Anu Mizh, Urmai,
Seppahijala, Tripura-799115.

Petitioner(s)

Vs

1. The State Rep. by
Inspector of Police,
PEW Anna Nagar, Chennai.
Crime No.91/2025

Respondent(s)

PRAYER

Criminal Original Petition filed under Section 483 of BNSS Act, 2023,
praying to enlarge the petitioner on bail pending trial in C.C.NO.1324/2025 on
the file of the IInd Additional Special Judge NDPS Act, Chennai and thus
justice.

For Petitioner(s): Mr.T.S.Sasi Kumar

For Respondent(s): Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)



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ORDER

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The petitioner, who was arrested and remanded to judicial custody on **22.07.2025** for the alleged offence **under Section 8(c), r/w 20(b)(ii)(C) of NDPS Act in Crime No.91 of 2025** on the file of the respondent police, seeks bail.

2.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent.

3(a).The learned counsel for the petitioner would submit that the petitioner was remanded to judicial custody on 22.07.2025 for the alleged possession of 20.282 kilograms of Ganja. According to the prosecution case, on 22.07.2025 when the police intercepted the petitioner, they have found two packets each contains 10.240 kilograms and 10.042 kilograms of Ganja in total 20.282 kilograms of Ganja and thereafter, they remanded the accused to the judicial custody. It is the specific contention of the learned counsel for the petitioner that the two packets of Ganja, which we allegedly recovered from the petitioner is with the brown colour packet. Had the respondent weighed the contraband after removing the brown colour pocket, the same would have been



less than 20 kilograms, and that the same would become an intermediate quantity. As a result of which, the rigour of Section 37 of NDPS Act will have no application.

(b). Apart from that, the learned counsel for the petitioner would submit that there are serious infirmity in respect of the time of arrest, confession, seizure and search. It is the further submission of the learned counsel for the petitioner that had there been the seizure preceded the FIR, the search memo should not have contained the Crime Number. Therefore, it is the contention that the search is a stage managed one. The learned counsel would further rely upon the recitals in the FIR and would contend that, according to the FIR the accused was arrested on 22.07.2025 at about 13.30 hours. But, in the arrest intimation, the time of arrest stated as “22.07.2025 at 16.45 hours”. In the search memo, the arrest is referred to as 13.30 hours. In the confession statement, the arrest is referred to as 11.55 hours. By referring all the above timing, the learned counsel would submit that there is a serious infirmity in the registration of FIR, search and the arrest of the accused, and thereby, the same vitiates the entire prosecution case. Therefore, would contend that there is a ground to overcome the rigour under Section 37 of NDPS Act. It is also the further submission of the learned counsel for the petitioner that the petitioner



has no criminal antecedent.

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4. *Per contra* the learned Government Advocate (Crl.Side) would submit that the total quantity of contraband is 20.282 kilograms of Ganja and that the petitioner is from Tripura. Therefore, if the petitioner is enlarged on bail, there is a possibility of abscondence. However, in all fairness he would submit that the investigation has been completed and charge sheet has been filed and the case was taken on file in C.C.No.1324 of 2025 before the Special Court for EC & NDPS Act, Chennai and that the case is now posted for engaging of counsel. Hence, prayed to dismiss the application.

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

6. Coming to the main submission with regard to the weight of contraband, it is the contention of the petitioner that had the respondent measured the weight of the contraband after removing the packets, the weight might have been below 20 kilograms. Though the said contention appears to be attractive, the same is primarily on the basis of surmises and conjunctures and a hypothetical one.



7. However, in respect of the variation of timing, as rightly contended by the learned counsel for the petitioner, in the FIR, the time of arrest was mentioned as 13.30 hours on 22.07.2025. However, the arrest memo says, it was on 16.45 hours. Contrary to the above two timings, in the confession statement it was referred as 11.55 hours. At this juncture, it is equally relevant to refer that, inspite of such contention being pleaded in the petition, the respondent did not answer the same in the counter statement. Further, the learned Government Advocate (Crl.Side) was also not in a position to explain to the Court as to how there are different timing for arrest in different documents. Therefore, as rightly contended by the learned counsel for the petitioner, there is a *prima facie* case for flaw in the arrest, which will have its own impact in the trial.

8. Yet another argument is, had there been a search prior to the registration of FIR, the crime number might not have mentioned in the search memo. The search memo is annexed in the typed set filed along with the bail application. As rightly contended by the learned counsel for the petitioner, the crime number referred to there. But, we cannot ignore the contention of the learned Government Advocate that these crime numbers have been put for convenience sake at the time of filing those documents before the Court for future reference.



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9. But at the same time in the backdrop of contradictions in the timing of the arrest from one document to another document viz., FIR, confession statement, arrest memo, the contention that the FIR is prior to search cannot be outrightly rejected. The learned counsel would also rely upon the judgment of the learned Single Judge in *Crl.OP.No.8899 of 2025 [Ansar Jilani @ Ansar Vs. State]* dated 05.08.2025, where this Court taking into consideration of the contradiction in the arrest timings, granted bail. Therefore, this Court is of the view that the above aspect is sufficient to bring the case within the exception to Section 37 of The Narcotic Drugs and Psychotropic Substances Act.

10. Taking into consideration of the above detailed discussion and upon the fact that the petitioner has no previous case, and upon the further fact that the charge sheet has been filed and the case was posted for engaging counsel, this Court is inclined to enlarge the petitioner on bail subject to certain conditions.

11. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** with **two sureties each**, for a like sum to the satisfaction of the **learned II Additional Special Judge, NDPS Act, Chennai**, and on further conditions that:

[a] the sureties shall affix their photographs and Left



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Thumb Impression in the Application for Surety ship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Magistrate shall obtain a copy of any one of the identity proofs to ensure their identity;

[b] the petitioner shall stay at Chennai until the completion of trial and appear before the learned II Additional Special Judge, NDPS Act, Chennai, daily at 10.30 A.M. for a period of two months;

[c] the petitioner shall not leave Chennai without the leave of the Trial Court;

[d] the petitioner shall not abscond either during investigation or trial;

[e] the petitioner shall surrender his passport before the learned II Additional Special Judge, NDPS Act, Chennai and if the petitioner does not possess any passport, he shall file an affidavit regarding the same;

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

[g] On breach of any of the aforementioned conditions, the learned Magistrate/Trial Court is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned 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



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P.K.Shaji vs. State of Kerala [(2005)13 SCC 283];

[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of B.N.S.

11.This Criminal Original Petition is ordered accordingly.

07.04.2026

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Note:-

1. Registry is directed to forthwith upload this order in the Official Website of this Court.

2. All concerned to act on this order being uploaded in Official Website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in the official website of this Court will be watermarked and will also have a QR code.

To:

- 1.The II Additional Special Judge, NDPS Act, Chennai
- 2.The Inspector of Police, PEW Anna Nagar, Chennai
- 3.The Superintendent, Central Prison, Puzhal, Chennai.
- 4.The Public Prosecutor, High Court of Madras.



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C.KUMARAPPAN J.

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