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CRL OP No. 5295 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 26-03-2026**

CORAM

**THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

**CRL OP No. 5295 of 2026**

1. Jasheer Razak  
S/o.Mr. Mohammed Basheer,  
No.2, 3rd Cross, Chiranjeevi Layout  
Extension, Hebbal Kempapura,  
Bangalore - 560 024.

Petitioner(s)

Vs

1. Union Rep. by Intelligence Officer  
DRI, Chennai Zone, Chennai - 600 017.  
R.R.No. 1/2023.  
F.No.DRI/CZU/VIII/48/ENQ-01/  
INT-02/2023.

Respondent(s)

**PRAYER**

Criminal Original Petition filed under Section 483 of BNSS, praying to enlarge the petitioner on bail in C.C.No. 971/2023 pending on the files of the I Additional Special Judge, Special Court under EC and NDPS Act, Chennai and pass such further or other orders.

For Petitioner(s): M.G.Martinmanivannan

For Respondent(s): MR.P.VISHNU  
Special Public Prosecutor  
For DRI Cases

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## **ORDER**

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The petitioner/A2 arrested and remanded to judicial custody on 27.01.2023 in connection with C.C.No.971 of 2023 for offence under Sections 8(c), 20(b)(ii)(c), 23, 28 & 29 (1) of Narcotic Drugs and Psychotropic Substances Act, 1985 on the file of the I Additional Special Court for exclusive trial of cases under the NDPS Act, Chennai.

2.The learned counsel for the petitioner would submit that there are two accused in this case and the petitioner is A2. It is the submission of the learned counsel that on the request of petitioner's cousin one Mr.Fouzan Hassan, who was the resident of America the petitioner has shared his uncle's import and export license details on the premise that Mr.Fouzan Hassan is genuinely transporting kitchen sink worth about \$1314. However, later on he came to know the foul play made by Mr.Fouzan Hassan in sending the cargo along with the contraband. The learned counsel would further submit that this petitioner as well as the another accused were arrested on 27.01.2023 and that they have moved bail applications, in Crl.OP.No.16884 and 16887 of 2025, in which, this Court dismissed the application on 20.08.2025. Aggrieved with the same, the co accused Jamaluddin filed an SLP before the Hon'ble Supreme Court in SLP.No.18601 of 2025, where the Hon'ble Supreme Court considering the long



incarceration of the co-accused since 27.01.2023, and based on the non compliance of the direction of the High Court to complete the trial within a period of six months, released the co-accused.

3.It is the contention of the petitioner that he is entitled to seek parity as that of Jamaluddin [A1]. He would further submit that against the common order, when the first accused preferred an SLP, the Hon'ble Supreme Court took cognizance of the delay in conclusion of the trial and non compliance of the direction of this Court to complete the trial within a period of six months granted bail. Therefore, the petitioner who stands on the same footing is also to be enlarged on bail by placing parity. In order to claim parity, the learned counsel relied upon the judgment of the Hon'ble Supreme Court in ***Ashpak Basha Makandar Vs. The State of Maharashtra*** in Crl.A.No.973 of 2026.

4.Per contra, the learned Special Public Prosecutor would submit that parity is not a matter of right and the main consideration would be the role played by the concerned individual, and in this case, the role played by the co-accused Jamaluddin and the role played by this petitioner is altogether different. Hence, the question of giving parity does not arise. In this connection, the learned Special Public Prosecutor relied upon the judgments of the Hon'ble



Supreme Court in *Sagar Vs. State of UP & another* reported in *2025 INSC 1370* and *Union of India Vs. Vigin K.Varghese* reported in *2025 INSC 1316*.

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

6.The following factors are not in dispute.

(i) This petitioner and the another accused qua Jamaluddin filed Crl.OP.Nos.16884 & 16887 of 2025, in which a common order was passed on 20.08.2025. For convenience sake, the relevant portion of the common order of the learned Single Judge in Crl.OP.Nos16884 & 16887 of 2025 is extracted hereunder:-

*“8.This is the fourth bail applications of the petitioners. It is seen that M/s.Jamal Industries, Mangalore, Karnataka filed a bill of entry No.4091192 dated 08.01.2023 for import of Azure Bathroom Vanity which was consigned by M/s.Bed and Bath Italia. On examination, it lead to recovery of 56.05 kgs of Marijuana/hydroponic weed (cannabis) filled in polythene packets and concealed under sink basin made of Plaster of Paris.*

*9.A1 is the Proprietor of M/s.Jamal Industries, Mangalore, Karnataka. A1 in his statement under Section 67, admitted that he used his IEC number; received money from A2 and attempted to remit the amount to M/s.Polaris Home Design, USA through Bank of Baroda on two occasions. Both times remittance to the foreign supplier failed due to mismatch of details and the amount reversed to A1. The petitioners claimed that they only acted as per instruction of Fouzan, a relative of A2, but the Whatsapp chats of the petitioners and bank details prima facie*



*shows the constant touch of the petitioners with Fouzan. Added to it, the seizure of invoices from AI's residence confirmed the case of the prosecution. The contention of the petitioners that only for a small monetary commission of Rs.20,000/-, the petitioners involved in importing of consignment, is not accepted since there is no material or proof to confirm the same. In this case, contraband seized 56.05 kgs of Marijuana/hydroponic weed (cannabis) is commercial quantity. Hence, this Court is not inclined to grant bail to the petitioners.*

*10.The decision relied upon by the learned counsel for the petitioner Rabi Prakash (cited supra) is not applicable to the facts of the present case for the reason that in that case a Truck in which the accused therein was one of the occupant sitting in the vehicle, the contraband seized from a compartment of the Truck and the petitioner was only a Traveller, nothing to do with the concealment and transportation, finding no conscious possession and involvement, further considering the period of incarceration and nothing directly attributed to the petitioner therein, the Hon'ble Apex Court granted bail. It is not the case herein.*

*11.In view of the above and finding that there is no change in circumstances, Criminal Original Petitions are dismissed. Considering the period of incarceration of the petitioner, complaint already filed and there are only 14 witnesses, it would be appropriate to direct the Trial Court to give priority and preference and to conduct the trial without giving long adjournments and complete the trial preferably within a period of six months from the date of receipt of a copy of this order."*

(ii). The dismissal of the application was on the sole ground that there is no change in circumstances and that the trial has to be completed within a period of six months. When this order was challenged by one of the accused in SLP.No.18601/2025, vide order dated 23.02.2026, the Hon'ble Supreme Court taking into consideration of the date of arrest and the non compliance of



direction given by this Court, and the laxity of the respondent in examining the witnesses has granted bail to the co accused Jamaluddin. The relevant portion of the order is as follows:-

- 1) Against order of rejection of regular bail by the High Court and to seek bail, the present special leave petition has been filed. The petitioner is in custody w.e.f.27.01.2023 in connection with NDPS File No.DRI/CZU/VIII/48/ENQ/INT-02/2023 on the file of Intelligence Officer, Directorate of Revenue Intelligence, Chennai, in CC No. 971 of 2023 for the offences punishable under Sections 20(b) (ii)(C), 23, 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.*
- 2) After hearing learned counsel for the parties and considering the fact that charges have been framed on 13.03.2024 and despite the directions of the High Court issued on 20.08.2025, out of 14, only 01 witness has been examined though a period of six months has elapsed; however, delay in trial cannot be ruled out and possibility of conclusion of trial at an early date is not possible. The accused has, by this time, undergone a custody of more than three years. Considering all these aspects, without expressing any opinion on the merits of the case, we deem it appropriate to release the petitioner on bail.*
- 3) Accordingly, we direct to release the petitioner on bail on furnishing the suitable bail bonds and sureties and on such other terms and conditions as may be deemed fit by the trial Court.*
- 4) Petitioner to abide all the conditions as imposed and shall regularly attend the trial until exempted by the Court. Violation, if any, may give a cause to take recourse as permissible and the trial Court is at liberty to do the needful.*
- 5) Accordingly, and in view of the foregoing, the special leave petition stands allowed. Pending application(s), if any, shall stand disposed of.”*



7. At this juncture, it is also relevant to refer the judgment of the Hon'ble Supreme Court in ***Sagar Vs. State of UP & another*** reported in **2025 INSC 1370** relied upon by the learned Special Public Prosecutor:-

*“11. It is clear from the perusal of the above factors that the High Court failed to consider all that was relevant. On parity, it is necessary to refer to **Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana(Koli) and Anr.** (2021) 6 SCC 230. This Court observed that while utilizing parity as a ground for bail, the same must focus on the role of the accused and cannot be utilized solely because another accused person was granted bail in connection with the same offence, and neither can this ground be claimed as a matter of right.”*

8. According to the above ruling, the parity should be analysed by considering the role played by the accused, and not by automatic. Here, the point urged by the learned counsel for the petitioner is that both the accused are in a similar footing, and there was a common order, and that such common order was challenged by one of the co-accused qua Jamaluddin.

9. While looking into the order of this Court in Crl.OP.Nos.16884 & 16887 of 2025, the reason for dismissal is involvement of commercial quantity, which is common to both the accused. Further, the direction of this Court to complete the trial within a period of six months is also common to both. As



such, the above grounds for dismissal of application are identical to both the accused. Even according to the FIR, this Court could not find any distinction in the gravity of allegations against each one of them. Hence, this Court is of the firm view that the present petitioner also stands on the same footing as that of the other co-accused Jamaluddin and is entitled to have the benefit of bail as ordered by the Hon'ble Supreme Court. No doubt that parity is not a matter of right. Even on that analogy, the role played by both the accused cannot be held to be distinctive. In such view of the position, this Court is of the firm view that the petitioner is entitled to have the parity as that of the first accused.

10. 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 I Additional Special Judge, Special Court under EC & NDPS Act, Chennai**, and on further conditions that:

[a] the sureties shall affix their photographs and Left 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;



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[b] the petitioner shall report before the learned I Additional Special Judge, Special Court under EC & NDPS Act, Chennai daily at 10.30 a.m., for the period of three weeks and thereafter, on the hearing dates;

c] the petitioner shall surrender his passport before the learned I Additional Special Judge, Special Court under EC & NDPS Act, Chennai and if the petitioner does not possess any passport, he shall file an affidavit regarding the same;

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

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

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



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[g] 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.

**26-03-2026**

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

*kmi*

To

- 1.The I Additional Special Judge,  
Special Court under EC & NDPS Act, Chennai.
- 2.Union, Rep. By Intelligence Officer,  
DRI, Chennai Zone, Chennai-600 017.
- 3.The Superintendent,  
Central Prison, Puzhal.
- 4.The Public Prosecutor,  
High Court of Madras.



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**C.KUMARAPPAN J.**

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