



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-06-2026

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

CRL OP No. 10159 of 2026

Shaik Nasir Hussain
S/o. Habidh Ali Khan,
Anjaneyar Kovil Backside,
Sivapuram Street, Narsipatinam Town,
Anagapalli Distirct, Andhra Pradesh.

..Petitioner(s)

Vs

The State represented by:

The Inspector of Police
M-2, M.M.Colony Police Station,
Madhavaram, Chennai District.
[Crime No. 442 of 2023]

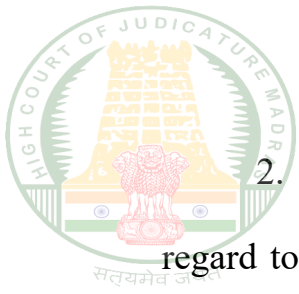
..Respondent(s)

PRAYER: The Criminal Original Petition has been filed under Section 483 of B.N.S.S. praying to enlarge the petitioner on bail in Crime No.442 of 2023 in CC.No.531 of 2024 on the file of the respondent police.

For Petitioner(s):	M/S. Anburaj
For Respondent(s):	Mr.S.Yogaraja Sekar, Government Advocate (Criminal side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 02.12.2023 for the alleged offences under Sections 8(c) read with 20(b)(ii)(C), 25 and 29 of NDPS Act in Cr. No.442/2023 on the file of the respondent police, seeks bail.



2. The *case of the prosecution* is that based on a secret information with regard to the illegal transportation and sale of Ganja, on 26.06.2023 at around 5.40 p.m., when the respondent police went to the spot i.e., near Manjampakkam Parking Yard and were under surveillance, at around 8.30 p.m., nearby a Car Mahindra XUV500 bearing Registration No.TN14 S 2540, they found the accused A1 handed over a black cover to A3 and the respondent police immediately apprehended them and recovered 2.15 kgs of Ganja from A3 and further, when the respondent police searched the boot of the car, they found 5 packages, which contained 120 kgs of Ganja and hence the case.

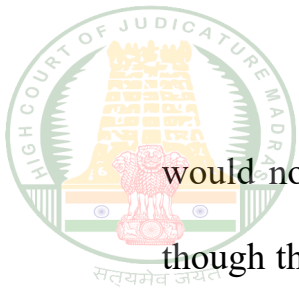
3. The learned counsel appearing for the petitioner would submit that since the other accused were already enlarged on bail, the petitioner is entitled for a parity. He would further submit that since the grounds of arrest were not furnished to the petitioner, as per the ratio laid down by the Hon'ble Supreme Court, the petitioner is entitled for bail. It is also the contention of the learned counsel that there is no recovery from this petitioner and only based on the confession of the co-accused, the petitioner has been formally arrested, when he was in custody in other cases and according to the Seizure Memo, there is a reference of the crime number, therefore, such reference would clearly probabalize that the registration of the FIR is preceding to the search and hence prayed to enlarge the petitioner on bail.



4. However, the learned Government Advocate appearing for the respondent police would strongly oppose the above said contention of the learned counsel for the petitioner and would submit that there is a recovery of 120 kgs of Ganga, which is a commercial quantity. Though the learned Government Advocate would fairly admit that the co-accused were released on bail, it is his submission that the petitioner cannot claim parity as the co-accused have no previous cases and as far as this petitioner is concerned, he has 4 other previous cases of similar nature in Andhra viz., Kotananduru P.S. Cr. No.84 of 2023, Golugonda P.S. Cr. No.129 of 2021, Annavaram P.S. Cr. No.178 of 2022 and Tuni Town P.S. Cr. No.125 of 2022 and therefore, he strongly objected the bail application.

5. I have given anxious consideration to the submissions made by the learned counsel on either side.

6. While looking into the factual position of the case, it is seen that the arrest of the petitioner was taken place on 02.12.2023 and therefore, by referring the ***Mihir Rajesh Shah vs. State of Maharashtra reported in 2025 SCC OnLine SC 2356***, the defence in respect of grounds of arrest can prospectively be taken, as the judgment was dated 06.11.2025 and in this case, the arrest is prior to the date of said judgment. Therefore, the reliance of ***Mihir Rajesh Shah vs. State of Maharashtra reported in 2025 SCC OnLine SC 2356***,



would not be applicable to this case. Further, coming to the aspect of parity, though the co-accused have no previous cases and this petitioner has 4 previous cases, the parity is not automatic and should be in accordance with the individual role played by the accused. In this case, since the petitioner has 4 previous cases, he cannot claim parity. Coming to the recovery and the crime number aspects, though the petitioner has raised certain allegations in respect of recovery and reference of the crime number, this Court is of the view that such evidence may not be ground at the time of considering the bail application. Therefore, in spite of the defence made by the learned counsel for the petitioner to seek a bail, this Court is not in agreement with the submissions made by the learned counsel for the petitioner and as rightly submitted by the learned Government Advocate, the grounds raised by the learned counsel for the petitioner are not sufficient to overcome the rigors under Section 37 of the NDPS Act and therefore, this Court is not inclined to enlarge the petitioner on bail.

7. Accordingly, this Criminal Original Petition is **dismissed**.

MJS

05-06-2026



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 Public Prosecutor, High Court, Madras.
2. The Inspector of Police, M-2, M.M.Colony Police Station, Madhavaram, Chennai District.



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C.KUMARAPPAN, J.

MJS

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