



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-06-2026

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THE HON'BLE MR.JUSTICE C.KUMARAPPAN

CRL OP No. 10972 of 2026

Edbertsam

..Petitioner(s)

Vs

The State rep by
The Inspector of Police
NIB-CID Police Station,
Chennai.
Crime No.21/2025.

..Respondent(s)

PRAYER : Criminal Original Petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, pleaded to enlarge the petitioner on bail pending investigation in Crime No.21 of 2026 on the file of the respondent police.

For Petitioner(s):

Mr.O.Chembulingam

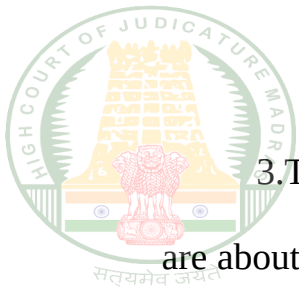
For Respondent(s):

Mr.S.Yogaraja Sekar, Government Advocate
(Criminal Side)

ORDER

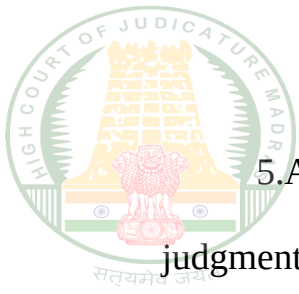
The petitioner, who was arrested and remanded to judicial custody on 13.04.2025 for the alleged offences under Sections 8 (c), 22 (c), 25 and 29(1) of the NDPS Act, in Cr.No.21 of 2025 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner along with other accused was found in illegal possession of 2 kg of Cocaine. Hence, the case.



3. The learned counsel for the petitioner vehemently submitted that there are about eight accused persons in this case and the total recovery of contraband is 2kg of Cocaine. He further submitted that, according to the prosecution, A1 to A4 were travelling in a car from which the respondent Police recovered 1 kg of Cocaine. Based upon their confession, A5 to A8 were subsequently intercepted, and recovered another 1kg of Cocaine. It is the specific submission of the petitioner's counsel that no scientific evidence or money trail has been established to implicate the petitioner. He further submitted that the petitioner was merely a driver and beyond that, he cannot be saddled with any liability. Even according to the prosecution, the initial recovery was made entirely from A1 and no recovery was effected from the petitioner. He stated that the petitioner is innocent and has been in custody since 13.04.2025. Hence, he prays to grant bail to the petitioner.

4. Per contra, the learned Government Advocate (Criminal side) submitted that the recovery was made from the car and the entire 1kg recovery must be construed as a recovery from A1 to A4. Apart from that there was also an additional recovery of 1kg of Cocaine from another car. Consequently, he strongly opposed the bail application on the ground that since a commercial quantity is involved, the rigour under Section 37 of the NDPS Act are attracted.



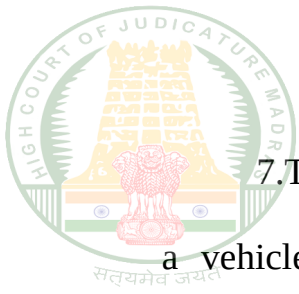
5. At this juncture the learned counsel for the petitioner relied upon a judgment of the Hon'ble High Court of Calcutta, reported in **2026 SCC Online Cal 4607**. It is the specific submission of the petitioner that he places reliance upon paragraph Nos.10, 11 and 12 which are extracted hereunder for ready reference:-

10. None of the seized articles were recovered from the person of the petitioner. The alleged involvement of the petitioner was only in driving the car. Ex facie, there is no direct involvement of the petitioner. Although the expression "possession" in respect of such offences may not be limited to recovery from the person of the accused, but at least it has to be established prima facie, for the rigours of Section 37 to apply, that the petitioner in some manner was in control of the seized material. Merely driving a car, while the recovery was made from the passenger, does not entail such a conclusion.

11. That apart, no past antecedent of crime of the petitioner has been pointed out and the petitioner is already in custody for about 196 days, whereas the chargesheet was filed on November 06, 2025 after completion of investigation, and out of 29 charge sheeted witnesses none has yet been examined.

12. On the other hand, Section 37 (1) (b) of 1985 Act cannot be read in isolation from the offences mentioned in the said Act. In the complete absence of any material to directly connect the petitioner to the alleged crime, at least till this stage, the benefit of doubt should go to the accused.

6. I have given my anxious consideration to the submissions made by the learned counsel on either side and perused the materials available on record.

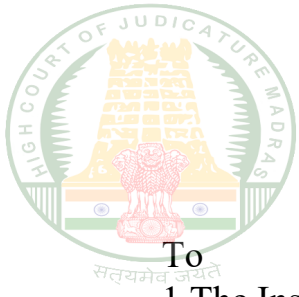


7. The learned counsel for the petitioner submitted that the mere driving of a vehicle from which a contraband is recovered cannot be a ground to automatically establish the conscious possession. Although the petitioner's counsel vehemently relies upon the above judgment, according to the prosecution, the recovery was made from the car that the petitioner was driving. Therefore, this Court is of the firm view that such recovery must also be construed as conscious possession on the part of the petitioner. Admittedly this is a case involving the recovery of 2kg of Cocaine, which constitutes a commercial quantity. Therefore, although the learned counsel for the petitioner contends that the non-existence of a money trail and scientific evidence could be a ground to overcome the rigour under Section 37 of the NDPS Act, this Court cannot not look into these factual aspects at this stage.

8. Under such circumstances, as rightly contended by the learned Government Advocate, the materials put forth by the learned counsel for the petitioner are not sufficient to overcome the rigors under Section 37 of the NDPS Act. For these reasons, this Court is of the firm view that the petitioner is not entitled for bail. Consequently, this Criminal Original Petition is dismissed.

09-06-2026

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To

1. The Inspector of Police
NIB-CID, Chennai.

2. The Public Prosecutor
High Court of Madras.



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C.KUMARAPPAN, J.

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