



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 11-06-2026**

CORAM

**THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN**

**CRL OP No. 14224 of 2026**

Mohammed Neman  
S/o.Irfan Ali,  
Bilal Majid Road, Tippu Nagara,  
Chickmangalur District,  
Karnataka State.

..Petitioner(s)

Vs

The State Rep by The Inspector of Police  
F-1 Gummidipoondi Police Station,  
Tiruvallur District.  
(Crime No.30/2026)

..Respondent(s)

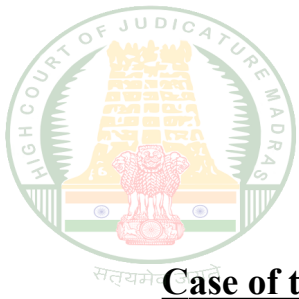
Prayer: This petition is filed under Section 483 of BNSS To enlarge the petitioner on bail crime no.30 of 2026 pending on the file of the respondent

For Petitioner(s): M/S. P. Muthamizh Selva Kumar

For Respondent(s): MR.S.YOGARAJA SEKAR, counsel for  
Government of Tamil Nadu

### **ORDER**

This Criminal Original Petition has been filed seeking to enlarge the petitioner/A2 on bail in Crime No.30 of 2026 on the file of the respondent police, registered for the offences punishable under Section 8(c) read with Sections 22(c) and 29(1) of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985.

**Case of the Prosecution:**

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2. The case of the prosecution is that on 31.01.2026 at about 22.00 hours, the respondent police received reliable secret information that two persons would arrive from Chennai to Gummidipoondi by train carrying methamphetamine for sale. The information was reduced into writing at 22.30 hours and communicated to the Inspector of Police, F1 Gummidipoondi Police Station, and necessary instructions were obtained at about 22.45 hours.

3. Thereafter, the Special Sub-Inspector, along with his police party, proceeded to Gummidipoondi Railway Station with necessary materials. At about 23.35 hours, two persons coming out of the railway station were identified by the informant. On enquiry, they disclosed their identities as Manikandan and Mohammad Neman.

4. After obtaining their consent for search and in the presence of police witnesses, the accused were searched at about 23.45 hours. During the search, 30 grams of methamphetamine was allegedly recovered from the pant pocket of the petitioner/A1 and another 30 grams of methamphetamine was allegedly recovered from the pant pocket of A2. The contraband was seized and



marked as P1 and P2 respectively under seizure mahazar. Both the accused were arrested at about 23.55 hours on 31.01.2026.

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5. It is further alleged that pursuant to the voluntary confessions of A1 and A2, one iPhone 13 Pro mobile phone from the petitioner/A1 and one iPhone 16 mobile phone from A2 were seized. The prosecution further claims that the accused disclosed that they had procured the contraband from Hari Krishna/A3 and one unknown person/A4, stated to be a foreign national belonging to an African country, for the purpose of sale and personal gain.

6. The learned Government Advocate would submit that the total quantity involved is 60 grams of methamphetamine, which is commercial quantity in terms of the NDPS Schedule, and that the Forensic Science Laboratory report is yet to be received. It is also submitted that A3 and A4 are absconding and that the investigation is still pending.

**Submissions on behalf of the Petitioner:**

7. The learned counsel appearing for the petitioner submitted that the petitioner was not arrested on 31.01.2026 as projected by the prosecution. According to him, the respondent police, claiming to be a special team, unlawfully entered the petitioner's residence at Ayanambakkam on 29.01.2026 at about 17.00 hours and forcibly took him into custody. It is further submitted



that the petitioner was kept in illegal custody and his arrest was formally shown only on 31.01.2026.

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8. The learned counsel further submitted that the petitioner's father lodged a complaint before H2 Puzhal Police Station and also before the Commissioner of Police, Chennai, on 31.01.2026 stating that his son was missing. Subsequently, the petitioner's father received telephonic information from the respondent police stating that his son had been arrested in Tiruvallur. According to the learned counsel, this sequence of events probabilises the petitioner's contention that he had been taken into custody prior to the officially recorded date of arrest.

9. It is also submitted that CCTV footage dated 29.01.2026 would demonstrate that the petitioner was taken into custody by police personnel in uniform. Placing reliance upon the order of this Court in Crl.O.P.No.19638 of 2025, the learned counsel submitted that where the earlier illegal custody of the accused is established through contemporaneous complaints by family members, the alleged subsequent recovery becomes doubtful at the stage of bail.

10. The learned counsel further submitted that the alleged recovery from the petitioner is only 30 grams of methamphetamine, which is not commercial quantity. According to him, the respondent police have clubbed the

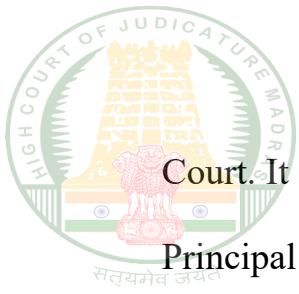


alleged recovery from A1 and A2 and have erroneously invoked Section 22(c) of the NDPS Act. It is contended that there is no prima facie material to show conscious joint possession, conspiracy or common design so as to aggregate the individual recoveries.

11. The learned counsel further contended that no independent public witness was examined at the time of search and seizure and the entire prosecution case rests only on police witnesses. It is also submitted that representative samples were not drawn at the place of seizure in accordance with the mandatory procedure prescribed under law.

12. The learned counsel also placed strong reliance on Section 47 of BNSS and submitted that the petitioner was not furnished with the grounds of arrest in writing in a language known to him. According to the petitioner, only an arrest memo under Section 36 of BNSS was issued and the constitutional mandate embodied under Article 22 of the Constitution of India and Section 47 of BNSS was not complied with.

13. The learned counsel finally submitted that the petitioner is an MBA graduate, employed in a reputed company, has no previous antecedents, has permanent residence and undertakes to abide by any condition imposed by this



Court. It is further submitted that the earlier bail petition filed before the learned Principal Special Judge for EC and NDPS Act Cases, Chennai, was dismissed on 16.03.2026 mainly on the ground that the investigation was at the nascent stage.

**Submissions on behalf of the Respondent:**

14. Per contra, the counsel for Government of Tamil Nadu appearing for the respondent strongly opposed the grant of bail. He submitted that the petitioner is the first accused and that the quantity involved is 60 grams of methamphetamine, which falls within commercial quantity. Therefore, according to the prosecution, the statutory bar under Section 37 of the NDPS Act is attracted.

15. The learned Government Advocate further submitted that the contraband was seized in accordance with law, that the accused were arrested and produced before the learned Judicial Magistrate, Ponneri, on 01.02.2026 and were remanded to judicial custody on the same day. It is further submitted that the samples were sent to the Forensic Science Laboratory, Chennai, on 25.02.2026 and the report is awaited.

16. It is also submitted that based on the confession statements of A1 and A2, the involvement of A3 Hari Krishna and A4, an unknown foreign

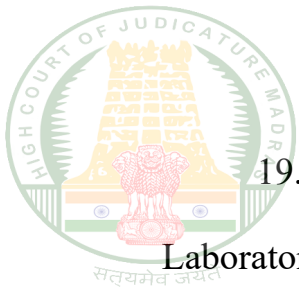


national, has come to light and both of them are absconding. Therefore, if the petitioner is enlarged on bail, there is every likelihood of his absconding, tampering with evidence and threatening witnesses. Hence, the learned Government Advocate sought dismissal of the petition.

**Discussion and Analysis:**

17. The petitioner is alleged to have been found in possession of 30 grams of methamphetamine. The prosecution seeks to treat the case as one involving commercial quantity by clubbing the alleged recovery of 30 grams from A1 and 30 grams from A2. Whether such clubbing is legally sustainable would depend upon the existence of prima facie material indicating conspiracy, conscious joint possession or a common design attracting Section 29 of the NDPS Act.

18. At this stage, except the alleged confession statements of A1 and A2 and the prosecution version that the contraband was procured from A3 and A4, no independent material has been placed before this Court to prima facie demonstrate a larger conspiracy. The recovery is shown as distinct and separate from the individual pant pockets of A1 and A2. Therefore, for the limited purpose of considering bail, the contention of the petitioner that the individual recovery from him is 30 grams and not commercial quantity cannot be brushed aside.



19. The prosecution has also admitted that the Forensic Science Laboratory report is yet to be received. Though the absence of FSL report by itself may not automatically entitle an accused to bail in every NDPS case, in the present case, the petitioner has raised additional grounds touching upon the manner of arrest, alleged prior illegal custody, lack of independent witnesses, non-drawing of representative samples at the spot and non-communication of grounds of arrest.

20. The allegation of prior illegal custody is supported, according to the petitioner, by complaints made by his father before H2 Puzhal Police Station and the Commissioner of Police, Chennai, on 31.01.2026. The prosecution has not placed convincing materials at this stage to completely dispel the said contention. This circumstance, though not conclusive, creates a debatable issue regarding the manner in which the petitioner came into the custody of the respondent police.

21. The petitioner has also raised a serious contention that Section 47 of BNSS was not complied with. Section 47 of BNSS embodies the constitutional requirement that an arrested person must be informed of the grounds of arrest. The mere preparation of an arrest memo cannot, in all cases, be treated as compliance with the statutory mandate to communicate the grounds of arrest. The judgments relied upon by the learned counsel for the



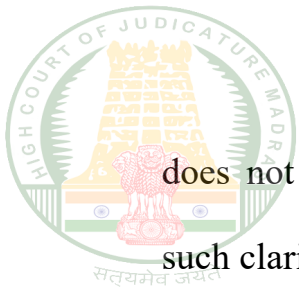
petitioner emphasise that communication of grounds of arrest is a substantive safeguard and not an empty formality.

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22. In an offence under the NDPS Act, where stringent consequences follow and the liberty of the accused is subjected to special statutory restrictions, procedural safeguards assume greater importance. The Court cannot ignore serious allegations of non-compliance with arrest safeguards, particularly when the petitioner has produced circumstances suggesting prior custody and delayed formal arrest.

23. The respondent has expressed apprehension that the petitioner may abscond, tamper with evidence or threaten witnesses. Such apprehension can be sufficiently addressed by imposing stringent conditions. The petitioner is stated to have no previous antecedents, is a graduate and is having a permanent place of residence. He has also undertaken to cooperate with investigation.

24. Insofar as Section 37 of the NDPS Act is concerned, this Court is conscious that bail cannot be granted in a mechanical manner where commercial quantity is involved. However, in the present case, there is a serious dispute as to whether the quantity allegedly recovered from the petitioner can be treated as commercial quantity by aggregation. The material presently available



does not prima facie establish conscious joint possession or conspiracy with such clarity as to attract the full rigour of Section 37 at this stage.

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25. Therefore, on a cumulative consideration of the alleged individual recovery of 30 grams, the absence of FSL report as on date, the disputed aggregation of quantity, the allegation of prior illegal custody supported by contemporaneous complaints, the alleged non-compliance of Section 47 of BNSS and the absence of previous antecedents, this Court is satisfied, for the limited purpose of bail, that there are reasonable grounds to believe that the petitioner may not be guilty of the offence involving commercial quantity and that he is not likely to commit any offence while on bail.

26. It is made clear that the observations made herein are only for the purpose of deciding this bail petition and shall not influence the investigation or trial.

27. In the facts and circumstances of the case, this Court is inclined to enlarge the petitioner on bail, subject to stringent conditions.

28. Accordingly, this Criminal Original Petition is allowed and the petitioner/A2 is ordered to be enlarged on bail on 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 **learned DM cum Judicial Magistrate Court, Gummidipoondi**, subject to the following conditions::

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[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of four weeks and thereafter as and when required for interrogation.

[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the 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)AIR SCW 5560]**.

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

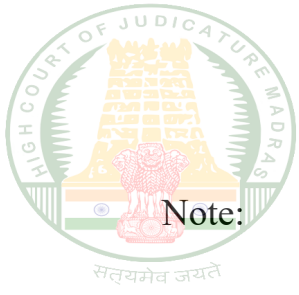
**11-06-2026**

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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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 **DM cum Judicial Magistrate Court, Gummidipoondi**
2. The Inspector of Police  
F-1 Gummidipoondi Police Station,  
Tiruvallur District.
3. The Superintendent, Central prison, Puzhal-II
4. The Public Prosecutor, High Court of Madras.



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**G.K.ILANTHIRAIYAN, J.**

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