



WEB COPY

Crl.O.P.No.14888 of 2026



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2026

CORAM

THE HONOURABLE Mr. JUSTICE C.KUMARAPPAN

Crl.O.P.No.14888 of 2026

Muhammed Abdulla Asha

... Petitioner

Vs.

State, Rep. By
Inspector of Police,
C-1, Uthukkottai Police Station,
Tiruvallur.
Cr.No.209 of 2025.

... Respondent

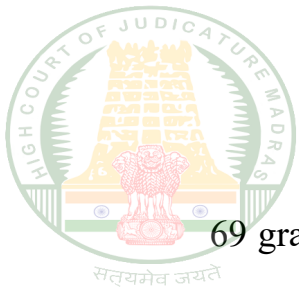
PRAYER : Criminal Original Petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to enlarge him on bail in C.C.No.730 of 2026 in Crime No.209 of 2025 on the file of the respondent, Chennai.

For Petitioner : Mr.K.Subburaj

For Respondent : Mr.S.Yogaraja Sekar
Government Advocate (Crl.Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 25.11.2025 for the alleged offences punishable under Sections 8(c), r/w 20(a) (i), 22(c), 25 & 29(1) of NDPS Act, 1985 in Crime No.209 of 2025, on the file of the respondent police, seeks bail.



2. The case of the prosecution is that, the petitioner was in possession of 69 grams of Methamphetamine and 500 grams of Ganja and the was seized by the respondent Police. Hence, the case.

3. The only ground raised by the learned counsel for the petitioner is that, when the earlier bail petition was dismissed by this Court on 29.01.2026, the issue relating to the non-furnishing of the grounds of arrest was not raised. Since the petitioner was arrested on 25.11.2025, i.e., subsequent to the judgment of the Hon'ble Supreme Court in *Mihir Rajesh Shah Vs. State of Maharashtra*, reported in (2026) 1 SCC 500, it is contended that there is a mandatory duty cast upon the respondent Police to furnish the grounds of arrest in writing, so as to enable the petitioner to effectively defend himself at the stage of remand as well as while seeking bail. The learned counsel for the petitioner also relied upon the arrest intimation form and would contend that the arrest intimation form cannot be equated with the grounds of arrest. According to him, even the arrest intimation form does not contain the material particulars necessary to enable the accused to effectively oppose the remand or seek bail.



3.1. It is the further contention of the learned counsel for the petitioner that, except referring to the penal provisions under which the petitioner was arrested, no other material particulars were furnished to him. In support of the said contention, the learned counsel relied upon various judgments to contend that, in the absence of communication of the grounds of arrest in writing, the constitutional rights guaranteed to the petitioner stand violated. According to him, the respondent Police cannot take any excuse for not furnishing the grounds of arrest. Hence, he prayed for enlargement of the petitioner on bail.

4. Per contra, the said contention was stoutly opposed by the learned Government Advocate (Crl.Side) and would submit that, though the arrest memo does not specifically set out the reasons for arrest except referring to the penal provisions, the consent given for search and the search memo narrate the nature of the occurrence. According to him, the same would substantially satisfy the requirement laid down by the Hon'ble Supreme Court in ***Mihir Rajesh Shah's case*** (cited supra). However, the learned Government Advocate (Crl.Side) fairly submitted that no separate written grounds of arrest were furnished to the petitioner. Hence, he prayed for dismissal of the bail petition.

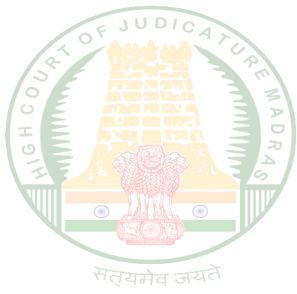
5. I have given my anxious consideration to either side submissions.



6. Admittedly, the case involves recovery of a commercial quantity of contraband. The Hon'ble Supreme Court, in various decisions, has categorically held that, howsoever grave the offence may be, the constitutional safeguards guaranteed under Article 21 of the Constitution of India cannot be diluted. The Hon'ble Supreme Court has further held that, if the grounds of arrest are not furnished to the accused, he would be entitled to the relief of bail. In *Mihir Rajesh Shah's case* (cited supra), the Hon'ble Supreme Court has observed as follows:-

*“62. We thus hold, that, in cases where the police are already in possession of documentary material furnishing a cogent basis for the arrest, the written grounds of arrest must be furnished to the arrestee on his arrest. However, in exceptional circumstances such as offences against body or property committed in flagrante delicto, where informing the grounds of arrest in writing on arrest is rendered impractical, it shall be sufficient for the police officer or other person making the arrest to orally convey the same to the person at the time of arrest. **Later, a written copy of grounds of arrest must be supplied to the arrested person within a reasonable time and in no event later than two hours prior to production of the arrestee before the Magistrate for remand proceedings.** The remand papers shall contain the grounds of arrest and in case there is delay in supply thereof, a note indicating a cause for it be included for the information of the Magistrate.*

63. The above indicated lower limit of two hours minimum interval before the production is grounded in the



WEB COPY

Crl.O.P.No.14888 c



*functional necessity so that the right as provided to an arrestee under the Constitution and the statute is safeguarded effectively. This period would ensure that the counsel has adequate time to scrutinize the basis of arrest and gather relevant material to defend the arrestee proficiently and capably while opposing the remand. Any shorter interval may render such preparation illusory, thereby resulting in non-compliance of the constitutional and statutory mandate. **The two-hour threshold before production for remand thus strikes a judicious balance between safeguarding the arrestee's constitutional rights under Article 22(1) and preserving the operational continuity of criminal investigations.***

*64. In view of the above, we hold with regard to the second issue that **non-supply of grounds of arrest in writing to the arrestee prior to or immediately after arrest would not vitiate such arrest on the grounds of non-compliance with the provisions of Section 50CrPC (now Section 47 of BNSS 2023) provided the said grounds are supplied in writing within a reasonable time and in any case two hours prior to the production of the arrestee before the Magistrate for remand proceedings.***

*65. It goes without saying that if the abovesaid schedule for supplying the grounds of arrest in writing is not adhered to, the arrest will be rendered illegal entitling the release of the arrestee. **On such release, an application for remand or custody, if required, will be moved along with the reasons and necessity for the same, after the supply of the grounds of arrest in writing setting forth the Explanation for non-supply thereof within the above stipulated schedule. On receipt of such an application, the Magistrate shall decide the same expeditiously and preferably within a week of submission thereof by adhering to the principles of natural justice.***

(emphasis supplied by this Court)



7. The aforesaid ratio has been made applicable prospectively. The judgment in ***Mihir Rajesh Shah's case*** (cited supra) was pronounced on 06.11.2025, whereas the petitioner was arrested and remanded to judicial custody on 25.11.2025. Therefore, the said ratio squarely applies to the present case. The learned Government Advocate (Crl.Side) relied upon the arrest memo and the acknowledgment relating to the search conducted on the petitioner. However, on a perusal of the arrest memo, this Court finds that, except referring to the penal provisions, no reasons have been assigned as to why the petitioner was arrested. As already stated, the learned Government Advocate (Crl.Side) has fairly submitted that no separate written grounds of arrest were furnished to the petitioner.

8. As held by the Hon'ble Supreme Court in ***Mihir Rajesh Shah's case*** (cited supra), the grounds of arrest are required to be furnished so as to enable the arrested person to effectively defend himself both at the stage of remand and while seeking bail. Mere reference to the penal provisions would not satisfy the requirement of law. Unless the minimum material particulars, including the nature of the contraband, and other relevant facts, are communicated to the accused, he cannot effectively defend the remand proceedings or effectively defend his bail.



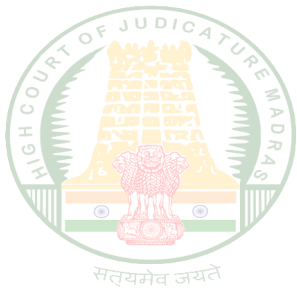
9. In the present case, admittedly, no separate written grounds of arrest, as mandated by the judgment in *Mihir Rajesh Shah's case* (cited supra), were furnished to the petitioner. Therefore, on the sole ground of non-furnishing of the grounds of arrest, the petitioner is entitled to be enlarged on bail. Hence, this Court is inclined to grant bail to the petitioner, subject to certain conditions. However, this Court makes it clear that the respondent Police is at liberty to move an appropriate application for remand or custody, if so required, after furnishing the grounds of arrest in writing, in accordance with law.

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 1st Additional Special Judge, Special Court for 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;

[b] the petitioner shall report before the learned respondent police daily at 10.30 a.m., until further orders;

[c] the petitioner shall surrender his passport before the Investigating Officer forthwith and shall not



WEB COPY

Crl.O.P.No.14888 c



leave the country without obtaining prior permission from the jurisdictional Trial Court. In the event the petitioner is not in possession of a passport, he shall file an affidavit before the Trial Court to that effect.

[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]**;

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

03.07.2026

kv

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.



Crl.O.P.No.14888 c

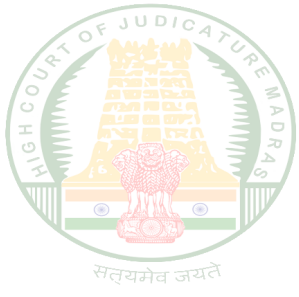


WEB COPY To 1. The 1st Additional Special Judge, Special Court
for EC & NDPS Act, Chennai.

2. The Inspector of Police,
C-1, Uthukkottai Police Station,
Tiruvallur.

3. The Superintendent, Central Prison, Puzhal.

4. The Public Prosecutor, High Court of Madras.



WEB COPY

Crl.O.P.No.14888 of 2026



C.KUMARAPPAN.J.

kv

Crl.O.P.No.14888 of 2026

03.07.2026