Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-10-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP No. 21156 of 2026

CNR:{HCMA011475162026}

AND

CRL MP NO. 14077 OF 2026

B.Lenin
S/o Beema Rao,
No.4, MGR Nagar,
Naduveerapattu Village,
Kundrathur Taluk,
Chennai-600 089.

..Petitioner(s)

Vs

The State Rep. by,
The Inspector of Police,
T-11, Somangalam Police Station,
Tambaram Police
Chengalpattu District.
Crime No.293 of 2024.

..Respondent(s)

PRAYER: Criminal Original Petition is filed under Section 528 of BNS, praying to call for the records culminating in CC.No.564 of 2025 pending on the file of the Hon'ble II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai and quash the same.

For Petitioner(s): Mr.M.Udhayakumar

For Respondent(s): Mr.A.Amarnath,
Additional Public Prosecutor,
High Court of Madras.

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This Criminal Original Petition has been filed to call for the records pertaining to C.C. No. 564 of 2025, pending on the file of the learned II Additional Special Court for Exclusive Trial of Cases under the NDPS Act, Chennai, and to quash the same.

2.The case of the prosecution is that, based on secret information, the respondent police intercepted a Swift car bearing Registration No. TN 14 AC 5502, in which the petitioner and the other accused were travelling, and allegedly seized seven kilograms of ganja from each of the three accused, totalling 21 kilograms, which constitutes a commercial quantity. The petitioner is arrayed as A1 among the three accused in Crime No. 293 of 2024, registered on 13.11.2024 for the offences under Sections 8(c), 20(b)(ii)(C), 25 and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985. Upon completion of the investigation, the first respondent filed the final report, which was taken cognizance of by the trial Court in C.C. No. 564 of 2025, and the case is pending trial. Seeking to quash the said criminal proceedings, the petitioner has filed the present petition.

3.The learned counsel appearing for the petitioner raised only one ground for quashing the entire proceedings. It was contended that the petitioner was

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arrested by the Sub-Inspector of Police, Ponnerikarai Police Station, on 12.11.2024 at about 12.40 p.m. and was thereafter handed over to the respondent police. Therefore, according to the learned counsel, the prosecution's case that the petitioner was arrested on 13.11.2024 at about 1.15 a.m. is false. On this sole ground, the learned counsel prayed that the petition be allowed.

4.Heard the learned counsel appearing on either side and perused the materials available on record.

5.Upon perusal of the entire records, this Court is of the view that the ground raised by the petitioner pertains to a disputed question of fact, which cannot be adjudicated in a petition seeking to quash the criminal proceedings. The said ground may be relevant for consideration while deciding the question of bail and may be examined by the trial Court during the course of trial, particularly at the stage of cross-examination of the prosecution witnesses. It is alleged that the petitioner and the other accused were found in possession of a total of 21 kilograms of ganja, which constitutes a commercial quantity.

6.The Hon'ble Supreme Court of India, in ***Devendra Prasad Singh v. State of Bihar & Anr.***, reported in ***(2019) 4 SCC 351 (Crl. A. No. 579 of 2019, dated 02.04.2019)***, while dealing with a petition seeking to quash criminal proceedings, held that the High Court cannot appreciate the statements of

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witnesses and record a finding that inconsistencies in their statements establish that no prima facie case is made out against the accused. Such an exercise can be undertaken only by the trial Court while adjudicating the matter on merits or by the appellate Court while deciding an appeal arising out of the final order. The Court also observed that inconsistencies in the statements recorded under Section 161 of the Code of Criminal Procedure, 1973, cannot, by themselves, form the basis for quashing the proceedings at that stage.

7.Further, the Hon'ble Supreme Court of India, in ***Central Bureau of Investigation v. Arvind Khanna***, reported in ***(2019) 10 SCC 686 (Crl. A. No. 1572 of 2019, dated 17.10.2019)***, held that the High Court cannot record findings on disputed questions of fact while exercising its jurisdiction to quash criminal proceedings. The defence raised by the accused has to be tested by the trial Court upon appreciation of the evidence adduced during the trial. Therefore, this Court cannot adjudicate upon the disputed facts in the exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure, 1973.

8.The Hon'ble Supreme Court of India, in another ***judgment dated 02.12.2019, passed in Crl. A. No. 1817 of 2019, in M. Jayanthi v. K. R. Meenakshi & Anr.***, held that, while considering a petition seeking to quash a complaint or charge sheet, the Court should not embark upon an enquiry into the validity or reliability of the evidence available on record. The Court is

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required to examine whether the allegations made in the complaint constitute the ingredients of the offences alleged, whether the requisite conditions for taking cognizance have been complied with, and whether the allegations, even if accepted in their entirety, fail to constitute the alleged offences. The question of whether the accused would be able to establish the defence in accordance with law can be considered only at the appropriate stage during the trial.

9.Further, this Court cannot, at this stage, record a finding as to whether the initiation of the criminal proceedings is malicious. Such a contention, if raised, has to be considered on the basis of the material available on record and in accordance with law. Therefore, the ground raised by the petitioner does not warrant the quashing of the final report.

10.In view of the foregoing discussion, this Court is not inclined to quash the proceedings in C.C. No. 564 of 2025 pending on the file of the learned II Additional Special Court for Exclusive Trial of Cases under the NDPS Act, Chennai. The petitioner is at liberty to raise all the available grounds before the trial Court in accordance with law. The trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order.

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11.Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petitions are also closed.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
AH

To

1.The II Additional Special Court for
Exclusive Trial of Cases under NDPS Act,
Chennai.

2.The Inspector of Police,
T-11, Somangalam Police Station,
Tambaram Police
Chengalpattu District.

3.The Public Prosecutor,
High Court,
Madras.

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