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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2026

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THE HON'BLE MR.JUSTICE N.RAMESH

CRL.O.P.No.24471 of 2026

CNR: {HCMA012048892026}

Alamin

..Petitioner

Vs

The State Represented by its
The Inspector of Police,
PEW Anna Nagar Unit,
Chennai.
Crime No.10 of 2026

..Respondent

PRAYER: To enlarge the petitioner on bail in Crime No.10 of 2026 on the file of respondent police and thus render justice.

For Petitioner : Mr.Srikanth Kolla
For Respondent : Mr.M.M.I.Khaleel,
Government Advocate (Crl.side).

ORDER

This is a petition for bail in a case under the NDPS Act under Section 483 of the BNSS. The petitioner is the sole accused in Crime No.10 of 2026 on the file of the Inspector of Police, Prohibition Enforcement Wing, Anna Nagar Unit, Chennai, registered for an offence under Section 8(c) read with Section 20(b)(ii)(C) of the NDPS Act, ('the Act'), now pending as **C.C.No.809 of 2026** on the file of the learned I Additional Special Judge for Exclusive Trial of Cases under the NDPS Act, Chennai ('the Special Court').

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2. The case of the prosecution, briefly stated, is this. On the night of 12.01.2026, acting on information, a police party of the respondent intercepted the petitioner near the Baba temple on the Koyambedu Market 'A' Road, Chennai, as he came carrying two blue bags. In the bags were two large bundles wrapped in brown tape, which, when opened slightly, were found to contain ganja. The two bundles were weighed on an electronic weighing machine at 10.825 kilograms and 10.320 kilograms, 21.145 kilograms in all, and were seized under a mahazar. The first information report records that the petitioner spoke in Hindi and that a head constable who knew Hindi interpreted what he said. The petitioner was arrested the same night and remanded to judicial custody, and he has been in custody since 12.01.2026, a little over nine and a half months. The investigation is complete and the final report has been taken on file. Nothing placed before me shows that charges have been framed.

3. Learned counsel for the petitioner made these submissions.

[a] The grounds of arrest were not furnished to the petitioner in writing, in a language he understands, either at the time of his arrest or before he was produced for remand. The arrest and the remand are therefore vitiated, as held in **Mihir Rajesh Shah v. State of Maharashtra, (2026) 1 SCC 500: 2025 INSC 1288**, and **Dr. Rajinder Rajan v. Union of India, 2026 SCC OnLine SC 802**.

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[b] The commercial quantity of ganja is 20 kilograms, and the recovery alleged exceeds it by 1.145 kilograms. The contraband was in two separate bags. In a case so close to the threshold the prosecution must establish the gross and the net weight and must leave out the stem and the stalk, as held in **Ganesan v. The State, Crl.A.(MD)No.212 of 2020 and batch, dated 15.10.2025**.

4. The respondent has filed a counter affidavit and the petition is opposed on its lines. It is said that **21.145 kilograms of Ganja**is a commercial quantity, that the report of the Forensic Sciences Department dated 02.02.2026 confirms that the substance is ganja, and that Section 37 of the Act stands in the way. The plea on the grounds of arrest is denied as a bald allegation. Paragraph (ix) of the reply to the grounds adds that the plea was not taken at the first instance, that the petitioner has not said how his right was affected, and that *"It is pertinent to note that the petitioner from Tripura"*. Length of custody, it is said, does not override Section 37, and if released the petitioner may abscond, repeat the offence and tamper with the evidence. On behalf of the respondent, reliance was also placed on the order of the Supreme Court dated 27.02.2026 in **M. Murugan v. State**, in the Criminal Appeal arising out of SLP (Crl.) No.21128 of 2025, which set aside in part the order of a coordinate Bench of this Court in Crl.O.P.No.25196 of 2025, dated 28.11.2025.

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5. I have considered the rival submissions and perused the material placed before me.

6. Ganja is defined by Section 2(iii)(b) of the Act as the flowering or fruiting tops of the cannabis plant, excluding the seeds and leaves when not accompanied by the tops. The bar in Section 37(1)(b)(ii) is attracted only where the offence involves a commercial quantity of 20 kgs and the prosecution, which invokes it, must place before the Court the material from which it can be seen that the threshold has been crossed. Leaves and seeds accompanied by the tops are part of the ganja, as held in **Shiv Kumar Mishra v. State of Goa, (2009) 3 SCC 797**. Stalks and stems stand differently. In **Ganesan** (cited supra), a coordinate Bench of this Court held that where the tops are recovered with stalks and stems their weight must be left out, particularly where the recovery lies between 21 and 25 kilograms, and I applied that decision in Crl.O.P.No.24478 of 2026, dated 30.09.2026, where the chemical report described the sample as containing leaf stalks. The wrapping, too, is no part of the ganja. In **Anand Dewar v. State of Chhattisgarh, Criminal Appeal No.3943 of 2026, order dated 19.08.2026**, the Supreme Court observed in paragraph 9:

"Though the contraband is stated to be 22 kgs, it prima facie appears that the weight is inclusive of the bag containing the contraband. Therefore,

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there is a possibility that the seized contraband could be below the commercial quantity, i.e. 20 kgs."

7. The recovery here is 21.145 kilograms, a little over one kilogram above the threshold. The first information report records that the two bundles were weighed as they were, wrapped in brown tape, and the mahazar records the two weights and nothing more. No net weight of the ganja appears anywhere in the record. The report of the Forensic Sciences Department dated 02.02.2026 describes each of the two samples as *"dry greenish brown broken leaves, leaf stalks, flowering tops and seeds"*. The material therefore contains leaf stalks, which had to be weighed separately and left out, and nothing on the record shows that this was done. **The leaves and seeds accompanying the tops are part of the ganja, and I make no deduction for them. The petitioner does not have to show that the whole of the 21.145 kilograms consists of excluded parts; on a margin of a little over one kilogram, with both the wrapping and the stalks counted in, it is enough that the record does not show them to have been separated and weighed apart**. I do not hold that the quantity is below the commercial quantity. That is a matter on which evidence will be led, and I leave it entirely to the Special Court. I hold only that there is a real possibility that the ganja, excluding the wrapping and the stalks, is below the commercial quantity, and that the bar in Section 37 cannot be applied to this petition on the present record.

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8. The order in **M. Murugan** (cited supra), on which the respondent relies, does not assist it. There, 20.600 kilograms of ganja was found in the boot of a car. The Supreme Court released four of the five appellants and declined bail *"at this stage"* to the first, having regard to the nature of the allegations, the fact that he drove the vehicle, and the fact that two of the accused were women; the State had placed before it antecedents of a similar nature. No question of the grounds of arrest, of the weight of the packing or of stalks was raised or decided. On the material as it stands, the rigour of Section 37 of the Act is not shown to apply to this petition. No earlier case being attributed to him. The investigation is complete and the evidence is in the hands of the prosecution.

9. The observations in this order are prima facie and are confined to the disposal of this bail petition. They are not an expression of opinion on the weight or composition of the contraband, or on any question that may arise at the trial on the arrest of the petitioner. The Special Court shall decide every question on the evidence let in before it, uninfluenced by anything stated here.

10. **In the result, this Criminal Original Petition is allowed** and 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

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like sum, **of whom one surety shall be a blood relative (blood surety)**, to the satisfaction of the learned **I Additional Special Court Under NDPS Act Chennai,** and on further conditions that:

[a] the sureties shall affix his 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 his identity;

[b] the petitioner shall appear before the trial court on all working days at 10.30 a.m., until further orders;

[c] Within one week of his release, the petitioner shall file before the Special Court an affidavit stating his permanent address in the State of Tripura, the address at which he will reside while on bail, and a mobile number on which he can be reached, with proof of each. He shall not change that address or number without prior written intimation to the Special Court and to the respondent.

[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, and shall not maintain any contact with the witnesses to the occurrence, the officials dealing with the case, or any other person who might be connected to the occurrence;

[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

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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.

30.10.2026

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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.

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To

1. The I Additional Special Court Under NDPS Act Chennai.

2. The Superintendent, Central Prison, Puzhal, Chennai.

3. The Inspector of Police, PEW Anna Nagar Unit, Chennai.

4. The Public Prosecutor,
High Court of Madras.

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