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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2026

CORAM

THE HON'BLE MR.JUSTICE N.RAMESH

CRL.O.P.Nos.25694, 28600 & 25811 of 2026

CNR: {HCMA012134392026}

CRL.O.P.No.25694 of 2026

Vaishnavi

..Petitioner

Vs

The State Rep by The Sub Inspector of Police,
D-1 Chengalpattu Town Police Station.
Crime No.332/2026.

..Respondent

PRAYER: To enlarge the petitioner on bail pending investigation in the Crime No.332 of 2026, on the file of the Sub Inspector of Police, D-1 Chengalpattu town Police Station,

For Petitioner : Mr.S.Karthikeyan for Mr.P.Santhosh

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

CRL.O.P.No.28600 of 2026

CNR: {HCMA012358022026}

Akash Jain

..Petitioner

Vs

The State Represented By its,
The Inspector of Police,
D-1, Chengalpattu Town Police Station,
Chengalpattu District.
Crime NO. 332 of 2026

..Respondent

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PRAYER: To enlarge the petitioner on bail in connection with the Crime No.332 of 2026 on the file of the Respondent Police and pass such order or further order as this Court.

For Petitioner : Mr.D.Padmanabhan

For Respondent : M.M.I.Khaleel,
Government Advocate (Crl.side)

CRL OP No. 25811 of 2026
CNR: {HCMA012153312026}

Yogita Vipul jogani

..Petitioner

Vs

The State Rep by The Inspector of Police
D1 Chengalpattu Town Police Station,
Chengalpattu District.
Crime No.332 of 2026.

..Respondent

PRAYER: To grant bail to the petitioner/Accused No.1 in Cr.No.332 of 2026 on the file of the D1 Chengalpattu Town Police Station and pass such further or other orders as this Hon'ble Court may deem fit and proper in the Circumstance of the above case

For Petitioner : Mr.K.Kably Taiyab Khan

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

COMMON ORDER

These are three petitions for bail in a case under the NDPS Act, under Section 483 of the BNSS. The petitioner in Crl.O.P. No.25811 of 2026, Yogita Vipul Jogani, is the first accused, the petitioner in Crl.O.P. No.25694 of 2026,

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Vaishnavi, is the second accused, and the petitioner in Crl.O.P. No.28600 of 2026, Akash Jain, is shown as the fifth accused, in Crime No.332 of 2026 on the file of the Inspector of Police, D-1 Chengalpattu Town Police Station, Chengalpattu District, registered for offences under Sections 8(c) read with 22(c) and 29(1) of the NDPS Act, and Sections 111 and 123 of the BNS. The counter affidavits add Section 25 of the Act. The case is under investigation. The three petitions arise out of the same crime, were heard together, and are disposed of by this common order.

2. The case of the prosecution, briefly stated, is this. On 29.06.2026 the Sub-Inspector of Police, D-1 Chengalpattu Town Police Station, received information that three persons would come near the Railway Quarters Park, Chengalpattu, to sell banned synthetic drug tablets. The police party went to the spot and intercepted the first three accused, who, according to the counter affidavits, tried to flee on seeing the police. The remand report records that from a trolley suitcase and a yellow bag that the first accused was carrying, the police recovered 4,000 tablets of Nitrosun 10 mg in 400 strips; 520 grams of powder, being Nitrosun tablets removed from their strips and crushed; 7,600 tablets of Tydol 100 mg; 14,000 tablets of Etadol 100 mg; and Rs.2,30,000/- in cash. Two passers-by who were asked to witness the search declined, and the seizure was recorded through the e-Sakshya application in the presence of police witnesses.

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The prosecution says that the second accused had come to the spot to buy the tablets from the first accused and had handed her the Rs.2,30,000/-. Nothing was recovered from the second accused. The three were arrested at the spot in the early hours of 30.06.2026 and remanded to judicial custody the same day. The counter affidavits state that three persons said to be the suppliers were arrested in Mumbai in August 2026 as the fifth to seventh accused; that the fourth accused, who was in custody in another case under the Act, was formally arrested in this case on 17.09.2026; and that the eighth accused is absconding.

3. The counter affidavits put the Nitrosun tablets at 409 strips and 4,090 tablets; the remand report at 400 strips and 4,000 tablets. Nothing turns on the difference, and I take the lower figure. Nitrosun 10 mg is a tablet of nitrazepam, 10 milligrams to the tablet. Nitrazepam is included in the list of psychotropic substances in the Schedule to the Act, and it is entered at Serial No.221 of the Table to Notification S.O.1055(E) dated 19.10.2001, which fixes its commercial quantity at 500 grams. By Note 4 to the Table, the figures apply to the drug in its dosage form and not merely to its pure content, as held in Hira Singh v. Union of India, (2020) 20 SCC 272. The 520 grams of crushed tablets is by itself above the commercial quantity. It does not stand alone. The 4,000 tablets seized with it carry, on their stated strength, 40 grams of nitrazepam, and their weight in their dosage form is necessarily more. It is not disputed that the Tydol

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and Etadol tablets are not substances covered by the Act. The counter affidavits state that the samples were drawn before the learned Judicial Magistrate No.I, Chengalpattu, and that the report of the Forensic Science Laboratory dated 17.07.2026 is positive. The seizure is of a commercial quantity, and Section 37(1)(b)(ii) of the Act governs a petition for bail by a person accused of an offence involving it.

4. The first and second accused were arrested on **30.06.2026** and have been in judicial custody since then. The investigation is pending and the final report has not been filed. According to the counter affidavits, the case stood posted to 06.10.2026 for the extension of remand. The petitioner in Crl.O.P. No.28600 of 2026 was arrested at Mumbai on 10.08.2026 and, after transit remand, was remanded to judicial custody.

5. Learned counsel for the first accused made these submissions.

[a] She has been falsely implicated. No independent witness attended the search and seizure, and the recovery rests on the word of police officers alone. Reliance was placed on **State of Rajasthan v. Parmanand**, (2014) 5 SCC 345, on the importance of the safeguards governing search and seizure.

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[b] The place and the circumstances of her arrest are disputed, and the quantity said to have been recovered cannot therefore be accepted at the stage of bail.

[c] The powder was not recovered from her. In the absence of a chemical analysis report, its identity and quantity are not established, and 4,000 tablets counted by number cannot be treated as a commercial quantity.

[e] Nitrosun, in tablet or in powder, is only a controlled substance.

[f] She has been in custody since 30.06.2026, has no antecedents, and is a diabetic under regular medication. She will abide by any condition the Court imposes.

6. Learned counsel for the second accused submitted that nothing was recovered from her and that the only allegation is that she had come to buy the tablets; that there is no call detail record and no money trail against her, and she has been implicated for statistical purposes; that the grounds of arrest were not furnished to her in writing.

7. Learned counsel for Akash Jain, fifth accused submitted that he was not among the persons apprehended at the spot and that nothing was recovered from him; that he was implicated forty-two days after the occurrence, on the

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statements of the co-accused and because his brother, who is also an accused, carries on a pharmaceutical business; that there is no independent material connecting him with the contraband; that the grounds of arrest, and in particular the quantity, were not furnished to him in writing, in breach of Article 22(1) of the Constitution and Section 47 of the BNSS; and that he has a permanent residence and a business at Mumbai and will abide by any condition.

8. The respondent has filed counter affidavits and the petitions are opposed on their lines. The learned Government Advocate (Criminal Side) submitted that the seizure is of a commercial quantity and the report of the laboratory is positive; that the contraband was recovered from the articles carried by the accused at the spot and seized under a mahazar, two persons present having declined to be witnesses, and that the absence of an independent witness is a matter for the trial; that the second accused was apprehended with the first and third accused and that the material collected connects her with them and with the transaction; that she has four earlier cases, three of them under the Act; that the investigation has disclosed a supply network and is in progress; that the diabetic condition of the first accused is not disputed but can be treated in custody; and that the plea on the grounds of arrest is not pleaded in the petition of the second accused. As to Akash Jain, he submitted that the petitioner supplied the tablets to the first and third accused through his

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connection with a pharmaceutical firm in Mumbai; that the absence of a recovery from him does not rule out his part in the conspiracy and the supply chain; and that his role is under investigation.

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

10. I take first the petition of the **first accused**, and the submission that Nitrosun is only a controlled substance. It is not. A controlled substance, under Section 2(viid) of the Act, is a substance which the Central Government, having regard to its possible use in the production or manufacture of narcotic drugs or psychotropic substances or to the provisions of an international convention, declares by notification to be a controlled substance. Such substances are regulated under Section 9A, and a contravention of an order made under that section is punished under Section 25A. A psychotropic substance, under Section 2(xxiii), is any substance, natural or synthetic, or any salt or preparation of it, included in the list of psychotropic substances in the Schedule. Nitrazepam is in that list, and a tablet of nitrazepam is a preparation of it. Its possession, sale, purchase and transport in contravention of the Act are punished under Section 22, graded by the quantities fixed in the notification.

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11. I turn to the material against her. Putting aside her own statement, what remains is the recovery. The remand report records that the tablets, the powder and the cash were found in the suitcase and the bag she was carrying, and that the seizure was recorded at the spot. That is not a statement to the police; it is the substantive material of the case. The submission that the powder was not recovered from her is answered by the prosecution papers themselves, and what she has to say against them is for the trial. The report of the laboratory, which the petition says is wanting, was received on 17.07.2026, before this petition was filed. The absence of an independent witness goes to the weight of the search and seizure, which is a matter for the trial; the law does not require that a charge under the Act be proved only through an independent witness, as held in **Jagwinder Singh v. State of Punjab**, 2023 SCC OnLine SC 2325. **Parmanand** (cited supra) was a case on Section 50 of the Act.

12. The counter affidavits record that the accused, told of their right to be searched before a Gazetted Officer or a Magistrate, *"consented to be searched by the police officer himself"*, and if that describes a search of the person, it will call for an answer at the trial. But Section 50 applies to a search of the person and not to a search of a bag carried by the person, as held in **Ranjan Kumar Chadha v. State of Himachal Pradesh**, 2023 INSC 878, and the recovery here is said to have been made from the suitcase and the bag. Whether her person

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was also searched, what she was told, and with what consequence, are questions of fact for the Special Court, which will have the consent memo and the evidence of the officers before it; neither is before me. As to the place of arrest, the petition does not say where, or when, she was in fact apprehended. On the material as it stands, I am not satisfied that there are reasonable grounds for believing that the first accused is not guilty of the offence alleged. The two conditions being cumulative, the failure of the first is sufficient, and the second does not call for consideration.

13. The remaining grounds do not alter that conclusion. Custody of a little under four months, in an investigation that is still in progress, is not long custody; a period of one year and seven months was held not to be long in **State of Punjab v. Balraj Singh @ Billa**, 2026 INSC 618, and the right to a speedy trial is to be read within the framework of Section 37 and not in displacement of it, as held in **State of Punjab v. Sukhwinder Singh @ Gora**, (2026) 7 SCC 513 : 2026 INSC 411. The respondent does not dispute that she is a diabetic. No medical record has been placed before me, and nothing suggests that her condition cannot be attended to in custody. It is not a ground on which the bar in Section 37 can be lifted, and I make a direction for her treatment below. That she has no antecedents is noted, but it goes to the second condition, which does not arise.

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The Superintendent, Special Prison for Women, Puzhal, shall, through the Medical Officer of the prison, ensure that the first accused receives the necessary medical attention for her diabetic condition, including referral to a Government Hospital for specialist care, as and when medically indicated.

14. I turn to the petition of the **second accused**, and take first the submission on the grounds of arrest, since it goes to the custody itself. It is not pleaded in the petition. It was urged across the Bar, and the respondent has had no occasion to answer it on affidavit. Neither the arrest memo nor any document said to contain the grounds has been placed before me. What the record does contain is the remand report, which states that the second accused was arrested at the spot after being told the reason for her arrest and that an intimation of arrest was prepared; and the endorsement of the learned Judicial Magistrate No.I, Chengalpattu, at the remand the same evening, that the grounds of arrest and the right to legal aid were explained and that there was no complaint against the police. She was present at the search and seizure, which preceded her arrest. She then applied to the Special Court for bail and did not raise the point there. Nothing in either application suggests that she did not know why she had been arrested, or that she was hampered in opposing her remand or in seeking bail. No prejudice is pleaded, and none is shown. In **State of Rajasthan v. Jhabra Ram**, 2026 INSC 1169, the Supreme Court, dealing with an arrest made after

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the decision in **Mihir Rajesh Shah v. State of Maharashtra**, (2026) 1 SCC 500 : 2025 INSC 1288, held in paragraph 22:

> *"In the absence of demonstrable prejudice or denial of an opportunity to defend, an alleged procedural defect in the mode of service cannot ipso facto invalidate detention or entitle an accused to regular bail".*

On this record, the plea does not entitle the second accused to release.

15. The case against the second accused is not one of a separate recovery to be added to another. Nothing was recovered from her. The case is that she was the buyer of the consignment carried by the first accused, and the offence alleged against her is one of abetment and conspiracy under Section 29 in an offence involving a commercial quantity. Putting aside the statements of the accused, the material for the *"concerted action"* found by the Special Court is limited. It consists of two things: that she was intercepted at the place named in the information, in the company of the first and third accused, who were carrying the tablets and the cash; and that, according to the counter affidavit, the three tried to flee on seeing the police. The table in paragraph 14 of the counter affidavit, which speaks of payments by her into the bank account of the daughter of the first accused, gives no amount and states its source as the statement of the first accused. No bank record is produced, and no call detail record is relied on. The specific overt act attributed to her in the counter affidavit is, in its own words, based on the confession of the first accused.

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16. What decides her petition is the second condition. Paragraph 10 of the counter affidavit lists four earlier cases against her, particularised by police station, crime number and sections:

i. Crime No.117 of 2024 of P-6 Kodungaiyur Police Station, under Sections 8(c), 20(b)(ii)(C), 25 and 29(1) of the Act;

ii. Crime No.251 of 2024 of V-1 Villivakkam Police Station, under Sections 8(c), 22(b) and 29(1) of the Act read with Sections 328 and 276 IPC;

iii. Crime No.361 of 2024 of the same police station, under Sections 191(2), 296(b), 115(2), 118(1), 109(1) and 351(3) of the BNS; and

iv. Crime No.439 of 2024 of the same police station, under Sections 8(c), 22(b), 25 and 29(1) of the Act read with Sections 123 and 278 of the BNS.

17. The remand report places the first of them also at Villivakkam. All four are shown as under investigation. Even so, three of them are cases under this Act, of the same kind as the present, all registered in 2024. Against that record, the petition states in paragraph 7 that she *"has not committed any offence similar to this offence"*. That statement is not correct, and it detracts from the credit of the affidavit. Where there are antecedents of offences of the

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same nature under the Act, it cannot be said that the accused is not likely to commit such an offence while on bail, as held in **Balraj Singh @ Billa** (cited supra). On that record, whatever the position on the first condition, I am unable to record the satisfaction that the second accused is not likely to commit any offence while on bail. The two conditions are cumulative, and the failure of either is enough.

18. The result would be no different if her petition were approached under Section 483 of the BNSS on ordinary principles, without the bar. The investigation into the supply of the tablets is in progress, and the eighth accused is yet to be traced. The earlier cases against her are of the same kind as the offence now alleged, and her own affidavit gives the Court an account of her record that is not true. On that material I am not persuaded that any condition this Court could impose would answer the risk of repetition that the record discloses.

19. I turn to the petition of **Akash Jain,** fifth accused. He was not at the spot, and nothing was recovered from him. The case against him is that he and his brother, who is also an accused, supplied the tablets to the first accused. The specific overt act attributed to him in the counter affidavit is that he was *"the*

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alleged supplier of the prohibited medicines to A1 and A3 through his connection with Denmark Pharmaceuticals, Mumbai", and that the statement of the first accused refers to the procurement of the medicines through the third accused and *"a person identified as Dhruv Mehta"*. Paragraph 8 of the same counter affidavit attributes Denmark Pharmaceuticals to Dhruv Dilip Mehta, and a different firm, S.R. Pharmahub, to the petitioner and his brother; and paragraph 9 speaks of *"the petitioner/A5, Dhruv Dilip Mehta"* as having been traced and arrested on 08.08.2026, confusing him with another accused altogether. The intimation of arrest served on him states the case against him as what the first accused *"disclosed"*, and paragraph 16 of the counter affidavit says that his own statement was recorded.

20. Those are statements of accused persons to the police, and they are put aside, as held in **Tofan Singh v. State of Tamil Nadu**, (2021) 4 SCC 1. Nothing else is shown. No call detail record, no transfer of money, and no invoice or other document connecting him with the tablets seized at Chengalpattu is relied on. The wholesale drug licence of S.R. Pharmahub, Mumbai, which is among the papers before me, stands in the name of his brother as proprietor; nothing in the papers shows the petitioner as concerned in that firm, or any dealing by that firm in the tablets seized. The question under Section 37 is not whether the statements will be admitted at the trial but what

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material there is now, and the stage of the investigation does not supply what the material lacks. A confession of a co-accused alone is no ground to refuse bail, as held in **State by (NCB) Bengaluru v. Pallulabid Ahmad Arimutta**, (2022) 12 SCC 633.No earlier case is attributed to him.

21. The legal position may be shortly stated: **nitrazepam, and any preparation of it, is a psychotropic substance included in the Schedule to the Act, and not a controlled substance within Section 2(viid)**; its commercial quantity of 500 grams under Serial No.221 of the Table to Notification S.O.1055(E) is measured, by Note 4, on the weight of the drug in its dosage form, so that tablets of it, whole or crushed, are weighed as they are and not by their content of nitrazepam alone.

22. **In the result, Crl.O.P.Nos.25811 and 25694 of 2026 are dismissed.**

23. Crl.O.P.No.28600 of 2026 is allowed, and the petitioner in it 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, **of whom one surety shall be a blood relative (blood surety)**, to the satisfaction of the learned **Judicial Magistrate – I, Chengalpattu,** and on further conditions that:

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[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 in Crl.O.P.No.28600 of 2026 shall appear before the respondent at 10.30 a.m. on every Monday for four weeks from the date of his release, and thereafter as and when required.

[c] Before his release, the petitioner in Crl.O.P.No.28600 of 2026 shall file before the learned Judicial Magistrate No.I, Chengalpattu, an affidavit stating his permanent address at Mumbai, the address at which he will reside while on bail and his mobile number, with proof of each, and shall not change any of them without prior written intimation to that Court and to the respondent.

[d] the petitioner in Crl.O.P.No.28600 of 2026 shall not abscond either during investigation or trial;

[e] the petitioner in Crl.O.P.No.28600 of 2026 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 Judicial Magistrate – I, Chengalpattu.

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

3. The Sub Inspector of Police, D-1 Chengalpattu Town Police Station.

4. The Public Prosecutor,
High Court of Madras.

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