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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-11-2026

CORAM

THE HON'BLE MR.JUSTICE N.RAMESH

CRL OP No. 26118 of 2026

CNR: {HCMA012174012026}

Vinoth
S/o Sekar,
No.294/1, Kannamangalam Road,
Arcot Taluk,
Vellore District.

Case QR

..Petitioner(s)

Vs

State, represented by The Inspector of Police
B-6 Mappedu Police Station,
Tiruvallur District.
Crime No.64 of 2026

..Respondent(s)

PRAYER : Criminal Original Petition filed under Section 482 of BNSS praying to enlarge the petitioner on bail in Crime No.64 of 2026 on the file of the Inspector of Police, B-6 Mappedu Police Station, Tiruvallur District, on such terms and conditions as this Honble Court may deem fit and proper in the circumstances of the case and thus render Justice.

For Petitioner(s): Mr.R.Parthiban
For Respondent(s): Mr.M.M.I.Khaleel
Government Advocate(Crl. Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 21.03.2026 for the alleged offences punishable under **Sections 8(c), 20(b)(ii)(c), 29(1) of the NDPS Act, 1985** in Crime No. 64 of 2026 on the file of the respondent police, seeks regular bail.

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2. The case of the prosecution, briefly stated, is this. On 21.03.2026, on information received at the station, a police party conducted a vehicle check at the Kannur junction on the Pannur–Mappedu road. At about 12.40 hours they stopped a Maruti Swift Dzire car driven by the second accused, in which the first and third accysed were travelling. Three bundles of ganja were found in a plastic cover on the rear seat. They weighed 5.285 kilograms and were seized, with the car and the mobile phones of the three accused, under a mahazar and they were arrested. On a statement said to have been made by the first accused, the vehicle check was continued, and at about 14.45 hours an Eicher lorry coming along the same road was stopped. The fourth and fifth accused were in it. Fifteen bundles of ganja in three bags, weighing 21.680 kilograms in all, were seized from the lorry under a separate mahazar, together with the lorry and two mobile phones. On the following day the **sixth accused/petitioner** was found in an autorickshaw behind the TASMAC shop at Mappedu, and 6.015 kilograms of ganja were seized from it. The prosecution adds the three recoveries together, 32.980 kilograms, and treats the case as one of commercial quantity. The samples were found on analysis to be ganja.

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3. Ganja is entered at Serial No. 55 of the Table to Notification S.O. 1055(E) dated 19.10.2001, and the **6.015 kilograms** of ganja seized from the petitioner is an intermediate quantity. The **32.980 kilograms of Ganja** seized from the six accused together is a commercial quantity. Section 37 of the Act is therefore engaged against the petitioner only if what was seized from the co-accused can be put to their account. The petitioner was arrested on **21.03.2026** and remanded to judicial custody the same day The investigation is complete.

5. Learned counsel for the petitioner made the following submissions.

[a] Only 6.015 kilograms of ganja, an intermediate quantity, was recovered from the petitioner. The three recoveries were made from three vehicles, at different places and times and under separate mahazars, and have been clubbed together only to bring the case within the commercial quantity.

[b] There is no material of agreement or abetment connecting the petitioners with the other accused. The seizure of mobile phones is not evidence of what passed between their holders. No call record, extraction report or financial transaction is relied on, and the final report does not attribute to the petitioners any individual act of procurement, sale or conspiracy. Reliance was placed on **AmarsinghRamjibhai Barot v.**

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State of Gujarat, (2005) 7 SCC 550, and **Nadeem Ahamed v. State of West Bengal**, 2025 INSC 993.

[c] The case rests on confession statements recorded by the police, which cannot be used against the petitioners, as held in **Tofan Singh v. State of Tamil Nadu**, (2021) 4 SCC 1.

[d] The investigation is complete, the petitioners have no previous case, and they will abide by any condition imposed.

6. The respondent has filed a counter affidavit, and the petition is opposed on its lines. It is stated that 32.980 kilograms of ganja, a commercial quantity, was seized from the six accused, and that the petitioners must satisfy the twin conditions in Section 37 of the Act. In the table in paragraph 1, in the column headed "Special Overtact of accused person", the counter affidavit states: *"Based on the confession statement of Accused person, it was revealed that A-4 & A-5 have purchased the aforesaid contraband from unknown person in the State of Orissa, and were involved in selling the same along with other accused person, for their unlawful personal gain."* It is further stated that the accused were a gang engaged in purchasing, transporting and selling ganja; that, according to the confession statements, the petitioners were accustomed to consuming ganja and alcohol; and that, if released, the petitioners are likely to abscond and to tamper with the evidence.

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

8. . Section 29 of the Act makes a person who abets, or is a party to a criminal conspiracy to commit, an offence under Chapter IV liable to the punishment provided for that offence. The quantity seized from one accused can be put to the account of another only where there is material of abetment, conspiracy or joint possession. Where accused persons found together were each carrying the substance recovered from him, and there was no evidence of abetment or conspiracy, Section 29 was held not attracted in **AmarsinghRamjibhai Barot** (cited supra). In **Nadeem Ahamed** (cited supra), the Supreme Court held, at paragraphs 22 and 23, that the simultaneous apprehension of two accused may give rise to a suspicion, *"but suspicion, however, cannot take place of proof"*, and that if the prosecution intended to club the contraband recovered from both, *"then positive proof to support the charge of conspiracy had to be presented."* A confession made to a police officer cannot be proved against its maker, by reason of Section 23(1) of the Bharatiya Sakshya Adhiniyam, 2023, and a statement recorded by an officer under the Act stands on the same footing, as held in **Tofan Singh** (cited supra).

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9. I take first the recoveries themselves. They were made from three different vehicles. The ganja in the car was seized at the Kannur junction at about 12.40 hours. The lorry was stopped about two hours later, after the petitioners had been arrested, and the ganja in it was in the possession of the fourth and fifth accused. The ganja in the autorickshaw was seized from the **sixth accused/petitioner** on the following day at another place. Each recovery was weighed and seized under its own mahazar, and the counter affidavit sets out the quantity seized from each set of accused separately. The material it offers for reading the three together is stated in terms in the column extracted above: the confession statements. The mobile phones of the petitioner and of the other accused were seized at the time of their arrest, and the investigation is over. Even so, the counter affidavit does not refer to any call detail record, any extraction from those phones, any transfer of money, or any witness to a dealing between the petitioners and the other accused.

10. There is one circumstance that is not merely a confession, and it must be faced. The lorry was intercepted on the information said to have been given by the first petitioner after his arrest. Whether any part of that information is admissible under the proviso to Section 23(2) of the Bharatiya Sakshya Adhiniyam, 2023, and what it would prove, are matters for the trial. Taken at its

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highest, it would show that the first petitioner knew that a lorry carrying ganja would come that way. It does not show that the petitioner had possession of, or a share in, what was in the lorry, or that the ganja in the car came from the same stock. The counter affidavit itself puts the purchase of the contraband in Odisha on the fourth and fifth accused, and does so on the confession statements. Nothing other than those statements connects the petitioner with the contraband seized from the other accused.

11. I do not decide whether the recoveries can be read together. That question belongs to the Special Court, first at the framing of charges and then at the trial. I hold only that, on the present record, it is not shown with the assurance that Section 37 of the Act demands that the petitioners are answerable for a commercial quantity, as this Court held on a comparable record in **Nasu Seikh Vs State Crl.O.P. No. 23777 of 2026, dated 05.10.2026**. The rigour of Section 37 of the Act is therefore not shown to apply, and the petition falls to be decided under Section 483 of the BNSS.

12. If the question were approached on the footing that Section 37 applies, I would record the satisfaction it requires. The learned Government Advocate (Criminal Side) has had a full opportunity to oppose this petition and

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has opposed it. The case of commercial quantity against the petitioners rests on an aggregation supported, as the papers stand, only by confession statements and by information whose admissibility and effect are for the trial. That furnishes reasonable grounds for believing that the petitioners are not guilty of an offence involving a commercial quantity. The counter affidavit attributes no previous case to any of the petitioners, and the column for previous convictions in the final report is blank. The statement that they consume ganja rests on the confession statements and is not an antecedent. Nothing on record suggests that they are likely to commit any offence while on bail. The period of custody, and the absence of any material to show that charges have been framed, have weighed with me, but they are not the basis of this order; the right to a speedy trial is read alongside, and not in displacement of, Section 37, as held in **State of Punjab v. Sukhwinder Singh @ Gora**, 2026 INSC 411.

13. In the result, this Criminal Original Petition is allowed and the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties, each for a like sum to the satisfaction of the learned **Judicial Magistrate No.II, Tiruvallur,** and on further conditions that:

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[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 his identity;

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

[c] Before their release, each petitioners shall file before the learned Judicial Magistrate No.II, Tiruvallur an affidavit stating his permanent address, the address at which he will reside while on bail, and his mobile number, with proof of each. He shall not change that address or number without prior written intimation to that Court and to the respondent..

[d] the petitioners shall not abscond either during investigation or trial;

[e] the petitioners 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 petitioners in accordance with law as if the aforementioned conditions have been imposed and the petitioners 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];**

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

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SMA

To

1. Judicial Magistrate No.II, Tiruvallur.

2. The Inspector of Police
   B-6 Mappedu Police Station,
   Tiruvallur District.
   Crime No.64 of 2026

3. The Public Prosecutor,
   Madras High Court.

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N.RAMESH, J.

SMA

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