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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2026

CORAM

THE HON'BLE MR.JUSTICE N.RAMESH

CRL.O.P.No.29197 of 2026

CNR: {HCMA012189512026}

Purusothamman

..Petitioner

Vs

The State Rep by The Inspector of Police,
J-3, Guindy Police Station,
Chennai.
Crime No.74 of 2025.

..Respondent

PRAYER: To enlarge the petitioner on bail in C.C.No.860 of 2025 on the file of the IInd Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai.

For Petitioner : Mr.T.S.Sasikumar,
For Mr.Srikanth Kolla.

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

ORDER

This is the third bail petition filed by the petitioner/A4, who was arrested and remanded to judicial custody on 08.03.2025 for the alleged offences punishable under Sections 8(c) read with 20(b)(ii)(C) and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985, in Crime No.74 of 2025, on the file of the respondent police, seeking bail.

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2. The case of the prosecution is that on 08.03.2025, the respondent police intercepted the petitioner/A4 along with three other accused (totally 4 accused) and found them in illegal possession of 21.500 kgs of cannabis (ganja). The contraband was seized under a cover of mahazar, and all the accused were arrested and remanded to judicial custody. Upon completion of investigation, the final report has been filed. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is arrayed as A4 and is an innocent person who has been falsely implicated in this case. Though this is the third bail petition, vital legal grounds that were not raised in the earlier bail applications are now placed before this Court for consideration.

4. Firstly, the learned counsel would submit that the prosecution version that all four accused were jointly lifting/carrying the single bag containing 21.500 kgs of ganja is highly improbable and has been projected solely to rope in all four accused under the ambit of commercial quantity.

5. Secondly, he would point out that a perusal of the recovery mahazar (pages 6 and 7) reveals that no samples were drawn at the scene of occurrence. However, at page 9 of the mahazar, there is a mention of samples having been drawn without specifying when, where, and in what manner the said samples

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were taken, which renders the entire sampling procedure highly doubtful and suspicious.

6. Thirdly, he would submit that while the FIR describes the seized contraband as loose ganja, the Forensic Science Laboratory (FSL) report reflects the presence of seeds, broken leaves, etc., and the sudden appearance of two samples without proper foundation in the seizure mahazar creates serious doubt regarding the veracity of the prosecution case.

7. Relying upon the judgment of this Court in ***Ganesan vs. The State*** (Crl.A.(MD)No.212 of 2020 & batch, dated 15.10.2025), the learned counsel would further submit that as per Section 2(iii)(b) of the NDPS Act, 1985, "Ganja" means only the flowering or fruiting tops of the cannabis plant, excluding seeds and leaves when not accompanied by the tops. In this regard, he relied upon the relevant paragraphs of the said judgment, which read as follows:

> *"23.10.7. From the reading of the definition of the Ganja, it is clear that only the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they may be known or designated, alone would come under the definition of Ganja. The luxuriant leaves (compound leaves), stems, and stalks are specifically excluded from the definition of Ganja.*
> *23.10.8. Therefore, the prosecution is duty-bound to prove that the seized contraband consists of flowering or fruiting tops of the cannabis plant. When the prosecution weighs the entire contraband along with the stems, stalks, and luxuriant leaves without separating*

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the flowering or fruiting tops, it cannot be said that the exact weight of the Ganja has been determined in accordance with law, particularly when the total weight hovers just above the threshold limit of commercial quantity (20 kgs)."

8. Applying the above ratio, the learned counsel would contend that the FSL report in the present case notes the presence of seeds and broken leaves without segregating or quantifying the actual flowering or fruiting tops. Since the total weight of the seized contraband is 21.500 kgs, which is only marginally above the commercial quantity threshold of 20 kgs, the failure to bifurcate the non-psychoactive parts takes the contraband out of the ambit of commercial quantity. He would also submit that the investigation is completed, the charge sheet has been filed, and the petitioner has been languishing in judicial custody since 08.03.2025. Hence, he prays for grant of bail to the petitioner.

9. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent police would submit that the petitioner/A4 along with the other accused was caught red-handed in illegal possession of 21.500 kgs of ganja, which is a commercial quantity, and that the earlier two bail petitions filed by the petitioner were dismissed by this Court. He would further submit that the discrepancies pointed out in the recovery mahazar and the FSL report are matters for trial and cannot be appreciated at the stage of

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bail, and that the rigour of Section 37 of the NDPS Act would squarely apply. Hence, he vehemently opposed the grant of bail.

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

11. Admittedly, this is the third bail petition filed by the petitioner/A4. However, the learned counsel for the petitioner has pointed out substantial discrepancies in the prosecution records that were not urged earlier, specifically, the improbability of all four accused jointly carrying a single consignment of 21.500 kgs, the absence of any record of drawing samples at pages 6 and 7 of the recovery mahazar contrasted with the abrupt reference to samples at page 9 without particulars of time or manner of drawal, as well as the variation between the description of the contraband in the FIR (loose ganja) and the FSL report (containing seeds, broken leaves, etc.).

12. Furthermore, in light of the principles laid down in ***Ganesan vs. The State*** (cited supra) regarding the statutory definition of ganja under Section 2(iii)(b) of the NDPS Act and the non-segregation of seeds and broken leaves in a case where the total weight is 21.500 kgs (borderline commercial quantity), this Court is of the *prima facie* view that there are reasonable grounds for believing that the petitioner may not be guilty of the offence

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involving commercial quantity, thereby satisfying the twin conditions contemplated under Section 37 of the NDPS Act, 1985, for the limited purpose of considering bail.

13. Taking into account the long period of incarceration undergone by the petitioner since 08.03.2025, and the fact that the investigation is completed and the charge sheet has already been filed, this Court is inclined to grant bail to the petitioner.

14. 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 II Additional Special Court for Exclusive Trial of Cases under NDPS Act cases at 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 his identity;

(b) the petitioner shall report before the Trial Court on all working days at 10:30 A.M. until further orders;

[c] the petitioner shall not abscond either during investigation or trial;

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[d] the petitioner shall not tamper with the evidence or witness either during investigation or trial;

[e] 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];**

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

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N.RAMESH, J.

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To

1. The Inspector of Police,
J-3, Guindy Police Station,
Chennai.

2. The II Additional Special Court for Exclusive Trial of Cases under NDPS Act cases at Chennai.

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

4. The Public Prosecutor,
Madras High Court.

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