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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2026

CORAM

THE HON'BLE MR.JUSTICE N.RAMESH

CRL OP No. 27892 of 2026

CNR: {HCMA012312252026}

Anandakumar

..Petitioner(s)

Vs

The State Rep by
The Inspector of Police
C-2, Elephant Gate Police Station,
Chennai-600 001.
Crime No.154/2026.

..Respondent(s)

PRAYER

This Criminal Original Petition is filed under Section 483 of BNSS, praying to enlarge the petitioner on bail in Crime No.154 of 2026 on the file of the respondent police and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Petitioner(s): Mr.S.Baskar

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

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ORDER

This is a petition for bail in a case under the NDPS Act, filed under Section 483 of the BNSS. The petitioner is the second accused in Crime No.154 of 2026 on the file of the Inspector of Police, C-2 Elephant Gate Police Station, Chennai. The crime was registered under Section 8(c) read with Section 22(b) of the NDPS Act, and the sections were altered on 26.07.2026 to Section 8(c) read with Sections 22(c) and 29(1) of the NDPS Act. The gravest of them, Section 22(c), carries rigorous imprisonment for not less than ten years, which may extend to twenty years. This is his first petition before this Court.

2. The case of the prosecution, briefly stated, is this. On 21.07.2026, acting on information, the respondent police intercepted the first accused in front of the GST Office on Elephant Gate Bridge Road, Chennai, and seized from a cover in his hand 790 tablets of nitrazepam 10 mg, 140 of them of the brand Nitrosun-10 and 650 of the brand Zep-10, weighing 295.90 grams in all. The first accused is said to have named the petitioner, a wholesale dealer in medicines at Madurai, as the person from whom he bought the tablets at a low price and who sent them to him by courier. The petitioner was arrested at Madurai on 25.07.2026. The same evening the police seized from his wholesale shop, M/s. Win Medicus, Munichalai Road, Madurai, 12,300 tablets kept in a black bag: 3,000 tablets of nitrazepam 10 mg (Zep-10); 8,400 tablets of

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alprazolam, 7,200 of 0.5 mg (Alperex-0.5) and 1,200 of 0.25 mg (Alperex-0.25); and 900 tablets of clonazepam, 400 of 0.5 mg (Zeelo-0.5) and 500 of 1 mg (Zeelo-1). According to the counter affidavit, the chemical analysis confirmed nitrazepam, alprazolam and clonazepam, and the two accused had earlier worked for the same pharmaceutical distributor, the first accused at its Chennai branch and the petitioner at its Madurai branch. The petitioner was remanded to judicial custody on 26.07.2026.

3. The record does not show that the tablets seized from the shop were weighed. The mahazar states that each strip of ten tablets weighed about three grams and arrives at the totals by multiplication, with the strips included. The count is enough. The 8,400 alprazolam tablets would exceed 100 grams if they weighed on average more than 11.9 milligrams each, that is, 100 grams divided by 8,400. The petitioner does not contend otherwise, and his petition proceeds on the footing that Section 37 applies (paragraph 22). I leave the nitrazepam and clonazepam tablets out of the working. Section 37 of the Act governs this petition. Under the notification S.O.1055(E) dated 19.10.2001, as amended, 500 grams for nitrazepam and 100 grams for alprazolam is commercial quantity. By Note 4 to that notification, the quantities 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**.

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4. Learned counsel for the petitioner made these submissions.

[a] The petitioner holds wholesale drug licences in Forms 20B and 21B, dated 09.09.2025, for the very premises from which the seizure was made, and the tablets are identifiable pharmaceutical formulations, not substances of unknown origin.

[b] The invoices of the manufacturer, Apex Formulations Private Limited, dated 10.11.2025 and 23.02.2026, issued against his licence numbers with batch, GST and transport particulars, show the source of the stock months before the occurrence.

[c] He does not contend that the licence by itself excludes the operation of the Act, and acknowledges the law declared in **Union of India v. Sanjeev V. Deshpande, (2014) 13 SCC 1**, and **Directorate of Revenue Intelligence v. Raj Kumar Arora, 2025 INSC 498**. The licence and the invoices are relied upon as circumstances bearing on the first limb of Section 37.

[d] Even if a particular supply did not comply with the requirement of a prescription, a regulatory infraction is not the same as knowing participation in an unlawful object, and there is no independent material of agreement to attract Section 29. Reliance is placed on **Tofan Singh v. State of Tamil Nadu, (2021) 4 SCC 1**, **Mohammed Fasrin v. State, (2019) 8 SCC 811**, **State by (NCB) Bengaluru v. Pallulabid Ahmad**

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Arimutta, (2022) 12 SCC 633, **Balwinder Singh @ Binda v. Narcotics Control Bureau, 2023 INSC 852** and **Firdoskhan Khurshidkhan v. State of Gujarat, 2024 INSC 351**, on the need for independent material where the statement of a co-accused is relied upon.

[e] Reasonable grounds are credible and plausible grounds, and no mini-trial is called for, as held in **Union of India v. Shiv Shanker Kesari, (2007) 7 SCC 798** and **Narcotics Control Bureau v. Mohit Aggarwal, (2022) 18 SCC 374**.

[f] The documentary evidence has already been secured.

5. The respondent has filed a counter affidavit and the petition is opposed on its lines. The learned Additional Public Prosecutor submitted that the seizure is of a commercial quantity; that a wholesale licence does not by itself show that the procurement, possession and onward supply of the tablets were lawful; that the petitioner supplied the tablets to the first accused by courier and kept further stocks for onward distribution; and that he sold them without an invoice or a prescription. Paragraph 8 of the counter affidavit states: *"He never denied this supply to A1 and was not supported by any invoice."* Paragraph 10 states that the source of procurement, the financial transactions and the stock and sales records were not produced. Paragraph 7 says that *"even though he had a valid invoice for purchase, he has not sold it with an invoice and prescription."* The

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two invoices are in the typed set. The apprehension that the petitioner may abscond, repeat the offence or tamper with the evidence is stated in paragraph 12.

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

7. The petitioner does not contend that his licence takes the tablets out of the Act, and rightly so. Section 8(c) prohibits dealing in any psychotropic substance except for medical or scientific purposes and in the manner and to the extent provided by the Act, the rules and orders made under it and the terms of any licence. The mention of a substance in the regime of the Drugs and Cosmetics Act does not take it out of the NDPS Act, and the exception avails only a person who has complied with it wholly, as held in **Raj Kumar Arora** (cited supra). What the licence does is bear on the first limb. Stock bought under a licence, on invoice, and kept at the licensed premises is, on its face, held in the manner the licence permits. The question is whether the material furnishes reasonable grounds, which means something more than prima facie grounds, for believing that the petitioner held and dealt with this stock only in that manner, as held in **Shiv Shanker Kesari** and **Mohit Aggarwal** (both cited supra).

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8. I leave, out of account, the statement of the first accused naming the petitioner and the petitioner's own statement to the police, as **Tofan Singh** (cited supra) requires. The seizure from the petitioner's own shop is not in dispute, and the mahazar records that the tablets were kept in a black bag. The petitioner and the first accused had worked for the same distributor. The petitioner's answer is that the stock was lawful stock bought on invoice. That answer is to be tested on the documents on which he founds it.

9. On their face, the two invoices of Apex Formulations, which describe the packing as boxes of 20x10 and 10x10 tablets, record the supply to the petitioner of 13,000 tablets of alprazolam (Alperex-0.5 and Alperex-0.25), 10,000 tablets of clonazepam (Zeelo-0.5, Zeelo-1 and Zeelo-2) and 3,000 tablets of nitrazepam (Zep-10), 26,000 tablets in all. The seizure accounts for 12,300 of them. The petitioner has also filed thirty-four sale bills of his firm, covering 02.05.2026 to 29.05.2026. Only one of them carries any of these drugs: three units of Zeelo-2, of a batch that does not appear in the Apex invoices. None shows a sale of alprazolam or nitrazepam to anyone. The documents therefore show 26,000 tablets coming in. They do not show where the 13,700 tablets of alprazolam and clonazepam that were not found in the shop went. The sale bills cover four weeks. But the petitioner, who relies on his records to show that his possession was lawful, has placed nothing before the Court to account for the

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balance, though the counter affidavit says in terms that the stock and sales records were not produced.

10. The petition does not deny the supply to the first accused. Its answer, in paragraph 16, is that

> *"the question whether there was a regulatory infraction is not mechanically identical with the distinct allegation that the petitioner knowingly participated in an illicit NDPS conspiracy or intentionally facilitated another person's unlawful resale."*

A supply of psychotropic substances by a licensed wholesaler to a person who holds no licence, without an invoice and without a prescription, if it is made out, is not a regulatory lapse outside the Act. It is dealing otherwise than in accordance with the licence, which is what Section 8(c) forbids. Whether it is made out is for the trial.

11. The learned Principal Special Judge refused bail because the petitioner had produced nothing to show his right to purchase and stock the tablets. The invoices now produced answer that in part: they show how the stock was bought. They do not answer what was done with it, which is the question that matters at this stage. It may also be noticed that the order of the Special Court records the case then put forward for the petitioner as being that

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he was a medical representative and that nothing was actually recovered from him. The petition before me accepts the recovery from his establishment.

12. On the material as it stands, I am not satisfied that there are reasonable grounds for believing that the petitioner is not guilty of the offence alleged. The two conditions in Section 37(1)(b)(ii) of the Act are cumulative, and the failure of the first makes it unnecessary to consider the second. The investigation is pending, and a custody of a little over three months does not call for a different course.

13. The legal position may be shortly stated: a wholesale drug licence and the manufacturer's invoices explain how a licensee came by a stock of psychotropic substances. Where the prosecution case is that the stock was being diverted outside the licence, they do not by themselves furnish reasonable grounds for believing that he is not guilty, unless his records also account for what became of the stock.

14. **In the result, this Criminal Original Petition is dismissed.**

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To

1. The Principal Special EC and NDPS Court,
   Chennai.

2. The Inspector of Police
   C-2, Elephant Gate Police Station,
   Chennai-600 001.

3. The Public Prosecutor,
   High Court, Chennai.

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N.RAMESH, J.

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