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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-11-2026

CORAM

THE HON'BLE MR.JUSTICE N.RAMESH

CRL OP No. 29165 of 2026

CNR: {HCMA012320652026}

Sandhya
D/o.Ettiyappan,
No.302, 2nd Cross street,
M.K.B. Nagar,
M.GR. Nagar,
Vyasarpadi,
Chennai.

Case QR

..Petitioner(s)

Vs

Union of India, Rep by the Intelligence Officer
Zonal Unit,
Chennai.
RR.No.43 of 2025.

..Respondent(s)

PRAYER : Criminal Original Petition filed under Section 482 of BNSS praying to enlarge the petitioner / Accused A3 on bail in RR.No.43 of 2025/ NCB F.No.48/1/15/2025-NCB /MDS., now pending as CC.No.712 of 2026 on the file of the learned Honble I Additional District Judge, Principal Special Court under EC and NDPS Act, Chennai.

For Petitioner(s): Mr.S.Xavier Felix

For Respondent(s): Mr.V.Chandrasekaran
Special Public Prosecutor For NCB

ORDER

This is a petition for regular bail in a case under the NDPS Act, under Section 483 of the BNSS. The petitioner, Sandhya, is the third accused in R.R.

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No.43 of 2025 (NCB F.No.48/1/19/2025-NCB/MDS) of the Narcotics Control Bureau, Chennai Zonal Unit, now pending as **C.C. No.712 of 2026** on the file of the learned Principal Special Judge for EC and NDPS Act Cases, Chennai, for offences under Section 8(c) read with Sections 20(b)(ii)(C), 23(c), 27A, 28 and 29 of the Act. This is her third petition before this Court.

2. The case of the prosecution, briefly stated, is this. On 13.11.2025 officers of the Bureau seized **28.080 kilograms of ganja** at Chennai airport from the checked-in baggage of the first and second accused, who had flown in from Phuket by way of Kuala Lumpur. Nothing was recovered from the petitioner. The prosecution says that she and one Yasar Arafath, since deceased, engaged the two women as carriers, sent them their tickets and hotel bookings by WhatsApp from her phone and kept track of the consignment. Ganja is entered at Serial No.55 of the Table to Notification S.O.1055(E) dated 19.10.2001, with a commercial quantity of twenty kilograms, and the petition accepts that Section 37 of the Act applies.

3. The petitioner appeared on summons and was arrested on 09.01.2026. The complaint has been taken on file, and the counter affidavit says the trial is about to commence. Two earlier petitions were dismissed by a coordinate

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Bench. Crl.O.P. No.10498 of 2026 was dismissed on 02.06.2026 *"for the present"*, the investigation being then pending. In Crl.O.P. No.16729 of 2026, dismissed on 06.07.2026, the coordinate Bench noticed the submissions that she had appeared on summons and co-operated, and that apart from the confessions of the co-accused there was no material against her. It found that WhatsApp chats and call detail records showed a nexus between her and the other accused, held her part in the conspiracy to be prima facie made out, and found no ground to overcome Section 37 of the Act.

4. Learned counsel for the petitioner made these submissions:

[a] the order dated 02.06.2026 rested on the pendency of the investigation, which has since been completed, so that the circumstance which weighed against the petitioner no longer survives;

[b] nothing was recovered from her, she was not at the airport, and she was implicated on the statements of the first and second accused, which cannot be used against her, relying on **Tofan Singh v. State of Tamil Nadu**, (2021) 4 SCC 1, **State by (NCB) Bengaluru v. Pallulabid Ahmad Arimutta**, (2022) 12 SCC 633, **Bharat Chaudhary v. Union of India**, 2021 INSC 877, **Surinder Kumar Khanna v. Intelligence Officer, Directorate of Revenue Intelligence**, (2018) 8 SCC 271, **Karan Talwar v. State of Tamil**

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Nadu, 2024 INSC 1012, and the order of this Court in Crl.O.P.(MD) No.22599 of 2024, dated 27.03.2025;

[c] she forwarded the tickets and the hotel bookings only at the request of Yasar Arafath, and the statement of the proprietor of the travel agency and her own bank statement show that she paid for neither, so that Section 27A of the Act is not attracted and there is no material of an agreement under Section 29;

[d] her own statement was obtained under threat of detention under the COFEPOSA Act and was retracted by a letter dated 12.01.2026 sent through the prison;

[e] she came to the office of the Bureau voluntarily on the evening of 08.01.2026 and was kept there until she was produced for remand; and

[f] the evidence is documentary and in the hands of the prosecution, and she will abide by any condition.

5. The respondent has filed a counter affidavit and the petition is opposed on its lines. It says that nothing has changed, that the case rests on the chats and photographs found on the petitioner's phone, the call detail records and the travel agency and hotel records, and that the retraction is an afterthought. It adds that after the seizure the petitioner went underground until January 2026, and that on release she may influence witnesses.

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

7. This being a successive petition, the first question is what has changed since the order dated 06.07.2026. A successive petition for bail is not barred, but it can be entertained only where there is a change in the fact situation or in law that requires the earlier view to be interfered with, or where the earlier finding has become obsolete, as held in **Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav**, (2005) 2 SCC 42. The change must be recorded, as held in **State of Punjab v. Sukhwinder Singh @ Gora**, (2026) 7 SCC 513 : 2026 INSC 411.

8. The order dated 06.07.2026 was made on the respondent's account of what the investigation had found. It does not refer to the complaint. The complaint and the documents filed with it are now before me, and the respondent's case rests on them. They show what the investigation found, and also what it did not. The forensic analysis of the petitioner's phones, sought by an application filed on 10.04.2026, is not part of the complaint, and the counter affidavit does not say that it has since been received. No payment for the tickets or the hotel is traced to the petitioner. The travel agent says the bookings were

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paid for in cash by a man he cannot identify. The petitioner has also spent four more months in custody. Taken together, these are a change in the fact situation that calls for a fresh consideration. I say so with respect to the view taken on 06.07.2026, which was taken on a different record.

9. Statements recorded under Section 67 of the Act cannot be used as confessions at the trial of an offence under the Act, as held in **Tofan Singh v. State of Tamil Nadu**, (2021) 4 SCC 1. Leaving them aside, the material against the petitioner is this. She forwarded the tickets and hotel bookings to the first accused from her phone, and her letter of 12.01.2026 accepts that she did so, at the request of Yasar Arafath. Photographs of the two women with their luggage were sent to her phone from Phuket. The complaint describes them in those terms, while the counter affidavit says they show the contraband packed in the trolley bags. The photographs themselves are not before me, and the forensic report is awaited. Her number was near the airport at 04.31 hours on 10.11.2025, the morning the two women left, and she stayed at a hotel at Egmore with Yasar Arafath from 14.11.2025. As for money, the complaint infers trafficking from the size of her bank transactions, but it does not link any transfer to the carriers, to the agent or to this consignment.The core allegations concern Mr. Yasar Arafath, who is now deceased.

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10. Those circumstances show that the petitioner knew the two women and Yasar Arafath and helped with their travel. Whether she knew that the women were to bring back ganja is, on the record as it stands, a matter that rests on the statements under Section 67. Reasonable grounds within Section 37 are *"credible, plausible and grounds for the Court to believe that the accused person is not guilty"*, and the Court records no finding that the accused is not guilty, as held in **Narcotics Control Bureau v. Mohit Aggarwal**, (2022) 18 SCC 374. On this record, such grounds exist. I do not rest on the retraction, whose worth is for the trial, or on the events of 08.01.2026. The decisions cited under ground [b] support the view I take, and the orders of this Court and of the Supreme Court in the papers are not its basis.

11. The counter affidavit does not attribute any earlier case to the petitioner. It says that she was out of reach between the seizure and January 2026. Since then she has appeared before the Bureau on summons, and her address in Chennai is on record. The apprehension that she may influence witnesses is stated in general terms, without any particular in support. These apprehensions can be met by conditions.

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12. The learned Special Public Prosecutor has had a full opportunity to oppose this petition and has opposed it. On the material as it stands, I record satisfaction within the meaning of Section 37(1)(b)(ii) of the Act. The period of custody has weighed with me, but it is not the basis of this order, and the right to a speedy trial has been read alongside, and not in displacement of, the mandate of Section 37.

13. **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,** for a like sum to the satisfaction of **the learned I Additional District Judge, Principal Special Court under EC & 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 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.

[g] Before her release, the petitioner shall file before the Special Court an affidavit stating the address at which she will reside while on bail and the mobile number on which she can be reached, with proof of each. She shall not change that address or number without prior written intimation to the Special Court and to the respondent.

[h] The petitioner shall not leave India without the prior permission of the Special Court.

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N.RAMESH, J.

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To

1. I Additional District Judge, Principal Special Court under EC & NDPS Act, Chennai

2. Intelligence Officer
Zonal Unit,
Chennai.

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

4. The Public Prosecutor,
Madras High Court.

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