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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. 27962 of 2026**

*CNR: {HCMA012336312026}*

Balaji
S/o.Natarajan,
No.13/79, Pillaiyar Koil Street,
Valla Nadu Agaram Village, Valla Nadu Post,
Sri Vaikundam Taluk,
Thoothukudi District.

..Petitioner(s)

Vs

The State Rep by
The Inspector of Police
PEW Redhills Unit,
Tiruvallur District.
Crime No.174/2025.

..Respondent(s)

PRAYER

This criminal original petition is filed under Section 483 of BNSS, praying to enlarge the petitioner/A2 on bail C.C.No.463/2026 in Cr.No.174/2025, pending on the file of the I Additional Special Court for Exclusive Trial of Cases under NDPS Act Chennai and conditions as this Hon'ble Court may deem fit.

For Petitioner(s): Mr.P.Muthamizhselvakumar

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 under Section 483 of the BNSS. The petitioner is the second accused in Crime No. 174 of 2025 on the file of the Inspector of Police, Prohibition Enforcement Wing, Redhills, Avadi City, registered on 14.11.2025 for offences under Section 8(c) read with Sections 20(b)(ii)(C) and 29(1) of the NDPS Act (the Act), now pending as C.C. No. 463 of 2026 on the file of the I Additional Special Court for Exclusive Trial of Cases under the NDPS Act, Chennai (the Special Court). This is his second petition before this Court.

2. The case of the prosecution, briefly stated, is this. On information that the petitioner, Surya @ Amaran Surya (the first accused) and Poovalingam (the third accused) had bought ganja in Andhra Pradesh and would pass the M.A. Nagar check post, a police party intercepted the three near the check post on 14.11.2025. Each was carrying his own bag. About eight kilograms of ganja was found in the bag carried by the first accused, about eight kilograms in the bag carried by the petitioner, and about seven kilograms in the bag carried by the third accused. The three were arrested the same morning.

3. The eight kilograms recovered from the petitioner is an intermediate quantity. Only the three recoveries taken together, twenty-three kilograms,



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exceed the commercial quantity. Section 37 of the Act is therefore engaged against the petitioner only if the quantities seized from the other two accused can be put to his account. The petitioner has been in custody since 14.11.2025, for more than eleven months. The case stands posted to 29.10.2026 for trial.

4. Learned counsel for the petitioner made these submissions.

[a] Only about eight kilograms, an intermediate quantity, was recovered from the petitioner, from a bag he carried himself. The recoveries from the three accused were separate, and they cannot be added together to bring Section 37 into play.

[b] Even if Section 37 applies, there are reasonable grounds for believing that the petitioner is not guilty and that he will not commit an offence while on bail.

[c] The investigation is complete, the final report is on file, and nothing remains to be recovered from him.

[d] He has been in custody since 14.11.2025, and the trial has not begun.

[e] The previous cases against him are only pending, and pendency is not conviction.

5. The respondent has filed a counter affidavit, and the learned Government Advocate (Criminal Side) opposed the petition on its lines. As stated in paragraph 15(a) of the counter affidavit, the three accused went


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together to Visakhapatnam, bought the ganja from the same source and carried it together towards Tiruppur. The division of the ganja into three bags, each below twenty kilograms, *"is a deliberate device to evade the rigour of the Act"*. The twin conditions in Section 37 are not satisfied. The petitioner is involved in Crime No. 188 of 2025 of the Murappanadu Police Station under Sections 8(c) and 20(b)(ii)(A) of the Act, which is under investigation. He is also involved in Crime No. 196 of 2021 of the same police station under Sections 294(b), 323 and 324 IPC and Section 4 of the TN Prohibition of Harassment of Woman Act, which is pending trial.

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

7. In Crl.O.P. No. 24809 of 2026, dated 28.09.2026, this Court considered, in the same crime as to whether the recovery from the first accused could be added to the recoveries from the petitioner and the third accused and held that the recoveries were separate in every particular, that the only material offered for joint possession was the statements of the accused recorded by the police, and that Section 37 did not apply to the first accused. The twenty-three kilograms consist of eight from the first accused, eight from the petitioner and seven from the third accused. Without the first accused's eight kilograms, the recoveries from the petitioner and the third accused come to about fifteen



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kilograms even if they are read together, and that is an intermediate quantity. Section 37 could therefore now be engaged against the petitioner only by treating the same material as proof of joint possession against him and not against the first accused. Two orders in the same crime cannot treat the same material in two ways.

8. The final report had been taken on file on 04.03.2026. The counter affidavit refers to no call detail record, ticket, money trail, recovery made in consequence of the statements, or witness to the purchase. After deducting the statement of an accused recorded by the police, what remains is that the three were found together, each carrying his own bag. Accused found together, but each carrying what was recovered from him, cannot have their recoveries clubbed without positive material of conspiracy. *These facts may give rise to a suspicion, but suspicion, however, cannot take place of proof*", as held in **Nadeem Ahamed v. State of West Bengal**, 2025 INSC 993. The prosecution, which invokes the bar, has not placed material from which it can be seen that the threshold is crossed against this petitioner.

9. I therefore hold, prima facie and for the purpose of this petition only, that the quantity to be attributed to the petitioner is about eight kilograms, an intermediate quantity, and that Section 37 of the Act is not shown to apply to him. Whether the prosecution proves joint possession, or a conspiracy under


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Section 29 of the Act, is for the Special Court on the evidence. On the ordinary considerations, the petitioner is entitled to bail. The investigation is complete.

10. Considering the case circumstances, this Court finds further incarceration unnecessary for investigation and grants bail to the petitioner subject to certain conditions.

11. 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 I Additional Special Judge, I Additional Special Court for Exclusive Trial of Cases under NDPS Act, 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 their identity;

**[b] the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders;**

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

[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,



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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.

12. **In the result, this Criminal Original Petition is allowed.**

**28-10-2026**

MFA

**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 I Additional Special Judge,
   I Additional Special Court for Exclusive Trial of Cases
   Under NDPS Act, Chennai.

2. The Superintendent,
   Central Prison, Puzhal-II

3. The Inspector of Police
   PEW Red Hills Unit,
   Tiruvallur District.

4. The Public Prosecutor,
   High Court, Chennai.



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**N.RAMESH, J.**

**MFA**

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