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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-11-2026

CORAM

THE HON'BLE MR.JUSTICE N.RAMESH

CRL OP No. 28284 of 2026

CNR:{HCMA012346282026}

Venkatesh
S/o. Nagarajan,
No.146, Block-5, Solai Nagar, Avinashi,
Now At No.18/42, Pushpavathi Compound,
Cheyur Road, Soolai, Avinashi,
Tiruppur District. ...Petitioner/Accused No.4

Case QR

Vs

The State Rep. by, The Inspector of Police
Avinashi Police Station,
Tiruppur District.
Crime No.1022 of 2025.

..Respondent(s)

PRAYER: To enlarge the Petitioner on bail in Cr.No.1022 of 2025 pending on the file of Inspector of Police,Avinashi Police Station,Tiruppur District and pass such other or further orders as this Honble Court may deems fit and proper in the facts and cirucmstances of the case and thus render justice.

For Petitioner(s): Mr.S.Mohamed Ansar

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

Order

1. This is a petition for regular bail in a case under the NDPS Act, under Section 483 of the BNSS. The petitioner is the fourth of nine accused in Crime No.1022 of 2025 on the file of the Inspector of Police, Avinashi Police Station, Tiruppur District, registered for offences under Section 8(c) read with Sections

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20(b)(ii)(C), 25 and 29(1) of the NDPS Act, ("the Act"), and now pending as **C.C.No.319 of 2026** on the file of the Additional District Judge/Presiding Officer, Special Court for Essential Commodities Act Cases, Coimbatore ("the Special Court"). This is his third petition before this Court.

2. The case of the prosecution, briefly stated, is this. On 16.12.2025 the police intercepted the fifth accused in a car at Palangarai. On his statement they secured the first four accused, among them the petitioner, near Ammani Maligai Shop on the Mettupalayam-Avinashi Road. In the course of the investigation 300 grams of ganja and two cars were seized, and, on the statement of the first accused, 38.400 kilograms of ganja was seized at the house of the sixth accused at Vettuvapalayam. The prosecution says that the accused had conspired to bring the ganja from Odisha by train for sale. The petitioner was arrested the same day and has been in custody since then, now a little under eleven months. The final report has been taken on file and the case stands posted for the framing of charges. 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 20 kilograms. The commercial quantity is attributed to the petitioner through the conspiracy alleged under Section 29 of the Act. Consistently with the orders of this Court on the co-accused in this crime, I proceed on the footing that Section 37(1)(b)(ii) of the Act applies.

3. Learned counsel for the petitioner made these submissions.

[a] Nothing was recovered from the petitioner. The contraband was seized at the house of the sixth accused.

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[b] The only material against him is the confession statements of the co-accused and the call detail records. His mobile phone was not seized or sent for examination, the Nodal Officer has not been examined and no certificate authenticating the records has been produced. Call detail records are not substantive evidence, and the Supreme Court left them to the trial in **State by (NCB) Bengaluru v. Pallulabid Ahmad Arimutta**, (2022) 12 SCC 633.

[c] Since the last refusal, this Court has released the ninth, the third and the fifth accused on the same material.

[d] The investigation is complete and the trial has not begun.

4. The respondent has filed a counter affidavit and the learned Government Advocate (Criminal Side) opposed the petition on its lines. The quantity is commercial. The confession statement of the first accused shows that the petitioner joined the others in bringing the ganja from Odisha. The call detail records show that, between 10.12.2025 and 16.12.2025, the petitioner was in contact with the third accused 34 times, with the sixth accused twice and with the ninth accused four times. He has a previous case, and if released he may abscond, repeat the offence and tamper with the evidence.

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

6. The column headed "specific overt act" in the counter affidavit rests the petitioner's involvement on the ‘confession statement’ of the first accused.

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Nothing was recovered from this petitioner/fourth accused. No recovery is claimed at his instance; the seizure already noticed was made at the house of the sixth accused, on the statement of the first accused. What remains is the call detail records already noticed, and the fact that he was secured with three of the others, as already noticed. The call detail records establish at the highest that one number was in contact with another. They say nothing of what was said, nothing of any purchase and nothing of any money. The counter affidavit does not claim that the petitioner's phone was seized or examined. Contact with three of the co-accused in the week before the seizure shows acquaintance, and acquaintance is not material of conspiracy. In **Pallulabid Ahmad Arimutta** (cited supra), at paragraph 12, the Supreme Court said that the call detail records of the accused were an aspect that *"will be examined at the stage of trial"*, and declined to interfere with their release where, apart from the statements recorded under the Act, no substantial material connected them with the offence. Being found with the other accused, with nothing recovered from him, adds nothing of substance. Whether these strands, with what the prosecution leads at the trial, prove the conspiracy is for the Special Court. On the material as it stands, they are not independent material of it.

7. Parity turns on the role attributed to the petitioner, and not on the bare fact that a co-accused is on bail. Here the comparison is close. The third accused was secured at the same place as the petitioner, and he is the other party to most of the calls already noticed. He has been released on the view that the confession statements and the call detail records were all that stood against him. Nothing in the counter affidavit attributes to the petitioner a larger role than his. The same calls, read from the other end, cannot be material of conspiracy against the petitioner and not against the third accused. Two orders in the same crime cannot treat the same material in two ways.

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8. On the second limb, the counter affidavit refers to one previous case, Crime No.645 of 2019 on the file of the Avinashi Police Station under Sections 294(b), 323, 324 and 506(ii) IPC, which is stated to have been disposed of. It has nothing to do with narcotic drugs, and no case under the Act is attributed to the petitioner.

9. 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 each**, for a like sum to the satisfaction of the **learned Additional District Judge / Presiding Officer, Special Court for Essential Commodities Act Cases, Coimbatore,** 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, the learned Magistrate/Trial Court is entitled to pass appropriate orders against the petitioner in acc with law as if the aforementioned conditions have been imposed and the

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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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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.

To

1.The Additional District Judge / Presiding Officer, Special Court for Essential Commodities Act Cases, Coimbatore

2.The Inspector of Police
Avinashi Police Station,
Tiruppur District.

3.The Superintendent,
Central Prison, Coimbatore.

4.The Public Prosecutor,
High Court, Madras

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N.RAMESH,J.,

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