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CRL OP No. 30358 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-06-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

**CRL OP No. 30358 of 2025
and CrI.M.P.No.20947 of 2025**

Narayan Singh@ Narayan Singh Parihar
S/o.Hari Singh Parihar,
Ghata Khedi Village,
Jhalawar District,
Rajasthan.

..Petitioner(s)

Vs.

Ingelligence Officer
NCB,
South Zone Unit,
Chennai -600 090.

..Respondent(s)

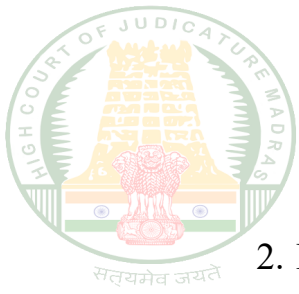
PRAYER: Criminal Original Petition filed under Section 528 of BNSS, to call for the records connected in C.C.No. 112/2008 on the file of the Principal Special Judge, NDPS Act, Chennai and quash the same same.

For Petitioner(s): Mr.T.S.Sasi Kumar

For Respondent(s): Mr. N.P.Kumar, Special Public Prosecutor
For NCB Cases

ORDER

The petitioner who is A2 in C.C.No.112 of 2008 facing trial for offence under Section 8 (c) read with Section 21 (b), 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, has filed this Criminal Original Petition.

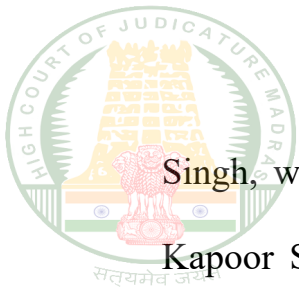


2. It is the case of the prosecution that on 16.08.2007, the officers of the Narcotics Control Bureau (NCB), Chennai, received specific information that one Raju Sain of Mumbai had arranged to transport about 5 kgs of heroin to Chennai through Shravan Bharti and Narayan Singh. The contraband was allegedly to be handed over to Kapoor Sain and Mahendar Singh at Chennai for further transportation to Sri Lanka.

3. Based on the said information, the Superintendent of NCB, Chennai, directed the officers to take necessary action. Accordingly, the NCB officials, along with two independent witnesses, proceeded to the vicinity of Hotel Iswar, Walltax Road, Chennai, at about 6.30 p.m. on 16.08.2007 and kept surveillance.

4. During surveillance, the officers noticed that persons matching the descriptions mentioned in the information report. The officers approached them, and conducted enquiries. The persons disclosed their identities as Kapoor Sain, Mahendar Singh, Shravan Bharti and another associate. According to the prosecution, the accused persons had assembled at the said place in connection with the delivery and further transportation of the narcotic substance.

5. It is the further case of the prosecution that, upon enquiry, Mahendar Singh Parihar informed the NCB officials that another associate, Narayan



Singh, was staying in Room No.7 of New Lotus Lodge. During the enquiry, Kapoor Sain admitted that he was in possession of a narcotic substance and handed over a black-green rexine zipper bag to the NCB officials, stating that it contained about 3 kilograms of heroin which he had received from Mahendar Singh, who in turn, stated that he received the bag from Saravan Bharati and Mahendar Singh Parihar, who had allegedly brought it from North India, and that he had subsequently handed it over to Kapoor Sain.

6. The prosecution further alleges that Saravan Bharati and Mahendar Singh Parihar admitted that they had brought 3 kgs of heroin from Mumbai and disclosed that Narayan Singh had taken 2 kgs of heroin to their lodge room. On opening the bag, the NCB officials found two polythene packets containing brown-coloured powder. Samples were tested using a field test kit and tested positive for heroin. The contraband, along with the bag, was seized under the provisions of the NDPS Act.

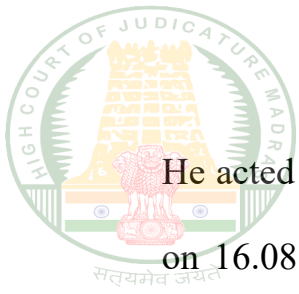
7. The two packets were found to weigh 1.525 kgs each, totalling 3.050 kgs. Samples were drawn, sealed, and marked as S1 to S6. The remaining contraband was separately sealed and marked as P1 and P2, while the bag used for carrying the contraband was sealed and marked as P3. Upon recording the statements of the accused persons and the other witnesses, the complaint came to be filed in R.R.No.7 of 2007, which was taken on file as C.C.No.18 of 2008,



as against the accused persons. Since A1 to A4 were in custody and the remaining accused could not be traced, the case against them got split up in C.C.No.112 of 2008, in which the petitioner was shown as A2.

8. The learned counsel appearing for the petitioner submitted that in this case the alleged occurrence is said to have been taken place in the year 2007. Though the contraband seized was 3 kgs of weight, it was mixed up with other substance and only 93 grams of heroin was present. Further, the accused persons – A1 to A4 pleaded guilty taking advantage of the Judgment passed by the Apex Court in **Michael Raj Vs. I.O.NCB** reported in (2008) 2 SCC (CrI) 558 and they were sentenced to 15 months imprisonment for each count and a fine amount of Rs.11,000/- each for each count on 10.12.2008 by the Trial Court. The learned counsel would submit that though the decision of the **Michael Raj** case (cited *supra*) has been turned around, the prosecution has not taken any steps to disturb the judgment rendered in C.C.No.18 of 2008. Thus, as regards A1 to A4, the judgment of conviction has become final. With regard to the present petitioner is concerned, warrant was issued against him on 29.05.2008 and he was arrested on 30.05.2025 in Rajasthan. Thereafter, he was released on bail by this Court.

9. The learned counsel for the petitioner further submit that the only overt act attributed against the petitioner is that he had contacted A1 on 12.08.2007.



He acted as a courier to transport the contraband. In this case seizure was made on 16.08.2007 and there is no seizure from the petitioner. The petitioner was linked with this case, only on two grounds, viz., the statement of the co-accused given before the NCB officials and the second one is with regard to the telephonic conversation with A1 between 6th, 8th and 9th August 2007. However, the certificate under Section 65 B was not produced by the prosecution. Further, the learned counsel would submit that after the pronouncement of the judgment in the case of *Tofan Singh Vs. State of Tamilnadu* reported in (2021) 4 SCC 1, the statement recorded under Section 67 of NDPS Act, has no relevance, unless it is supported with any recovery.

10. The learned counsel would submit that in this case admittedly, the statement under Section 67 of NDPS Act, was recorded against the petitioner / accused are all after the recovery and hence the statement cannot be considered as a confession statement to look against the petitioner. With regard to the telephonic conversation with A1, on 06.08.2007, the conversation was held for 41 seconds; another call on the same day for 65 seconds and on 09.08.2007, it was for 240 seconds. The cellphone tower details also not available in the case records, to confirm that the petitioner was available either at Chennai or at Rajasthan. The petitioner is said to have handed over the contraband to A1, which he had brought from Rajasthan. There is no reason for the petitioner to have a conversation with A1 and there is nothing to show that there was

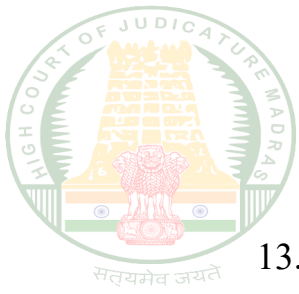


conversation with A1, immediately prior to the seizure or after the seizure.

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11. The learned Special Public Prosecutor submitted that the statement of A1 is voluntary in nature. In his statement it was admitted that he was in contact with the petitioner / accused. The telephonic conversation between petitioner and the A1 was proved through the telephonic call details. The petitioner handed over the heroin to A1, which he brought from Mumbai. The points raised by the petitioner can be adjudicated during the trial and cannot be considered in the quash petition. The accused persons, A1 to A4 already pleaded guilty and they have been let off. The petitioner was proceeded primarily on the statement of A1. Therefore, he strongly opposed to entertain this petition.

12. On perusal of the case records, it can be seen that after the pronouncement of **Tofan Singh's** case (cited *supra*), the statement recorded under Section 67 of the NDPS Act cannot be straight away taken in evidence. It can be considered only to the limited purpose of any recovery akin to Section 27 of the Evidence Act. Admittedly, there is no recovery on the basis of the statement recorded under Section 67 of the NDPS Act and the statement is recorded after the recovery. Therefore, it has no relevance. Further, the telephonic conversation cannot be appreciated since the certificate under Section 65 B of the Evidence Act not produced before the Court.



13. In the absence of any independent incriminating material connecting the petitioner with the alleged offence, and in view of the embargo placed on the admissibility of confessional statements recorded under Section 67 of the NDPS Act by virtue of the decision in **Tofan Singh's** case (cited *supra*), this Court finds that no useful purpose would be served by permitting the prosecution to continue against the petitioner. Therefore, the proceedings against the petitioner are liable to be quashed.

14. Accordingly, the Criminal Original Petition stands allowed and the proceedings in C.C.No. 112/2008 on the file of the Principal Special Judge, NDPS Act, Chennai, is quashed insofar as the petitioner is concerned. Consequently, the connected miscellaneous petition is closed.

23-06-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

JER

To

1. The Principal Special Judge, NDPS Act, Chennai.
2. The Intelligence Officer
NCB,
South Zone Unit,
Chennai -600 090.
3. The Special Public Prosecutor
High Court of Madras.



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M.NIRMAL KUMAR, J.

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