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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2026

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THE HON'BLE MR.JUSTICE N.RAMESH

CRL.O.P.No.29570 of 2026

CNR: {HCMA012428302026}

Janarthanan ..Petitioner

Vs

The State Rep By, The Inspector of Police,
Veerapandi Police Station,
Tiruppur City.
Crime No.61 of 2026. ..Respondent

PRAYER: To enlarge the Petitioner/Accused No.4 herein on bail pending trial in C.C.No.600 of 2026 on the file of Additional District Judge/Presiding Officer, Special Court for Essential Commodities Act Cases, Coimbatore and thus render justice.

For Petitioner : Mr.G.Saravanan
For Respondent : Mr.M.M.I.Khaleel,
Government Advocate (Crl.side).

ORDER

This is a petition for regular bail in a case under the NDPS Act ("the Act"), under Section 483 of the BNSS. The petitioner is the fourth accused in Crime No.61 of 2026 on the file of the Veerapandi Police Station, Tiruppur City, registered for offences under Sections 8(c) read with 20(b)(ii)(C), 25 and 29(1) of the Act, now pending as **C.C.No.600 of 2026** on the file of the learned Additional District Judge, Special Court for EC Act Cases, Coimbatore ("the Special Court"). This is his second petition before this Court.

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2. The case of the prosecution, briefly stated, is this. On 10.02.2026 a police party stopped a car carrying five persons on the road to Ayyampalayam, Tiruppur. The first information report records that the first accused was driving, that the petitioner was seated in the middle of the rear seat, and that the first accused opened the boot. In the boot was a white plastic cattle-feed sack tied with rope, containing dry ganja, greenish in colour, with leaves, flowers and stalks. The report records that the ganja was weighed at the spot on an electronic scale the police had brought, and was found to be about **22 kilograms 200 grams**. The petitioner was arrested and remanded on the same day and has been in custody for a little under nine months. The final report has been taken on file, charges were framed on 03.11.2026, and none of the sixteen witnesses cited has been examined.

3. The seized **22 kilograms 200 grams** of Ganja is commercial quantity. The first petition, Crl.O.P. No.10343 of 2026, was dismissed by a coordinate Bench on 08.07.2026. The ground then urged was that nothing was recovered from the petitioner. The Court held that the 22.200 kilograms is a commercial quantity and that no ground had been made out to overcome Section 37 of the Act. The order does not refer to what the 22.200 kilograms consisted of or how it was weighed.

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4. Learned counsel for the petitioner made these submissions.

[a] The first information report describes the contraband as leaves, flowers and stalks weighed in bulk. Stalks are no part of ganja under Section 2(iii)(b) of the Act, and seeds and leaves are excluded when not accompanied by the tops. Had the flowering and fruiting tops been separated and weighed, the quantity would have fallen below 20 kilograms. Reliance is placed on **Killo Subbarao v. State of Andhra Pradesh**, Crl.P. No.5306 of 2025, dated 23.06.2025 (High Court of Andhra Pradesh).

[b] The petitioner was a passenger, did not know of the contraband, and nothing was recovered from him.

[c] He is eighteen years old, a student, and has no previous case.

5. The respondent has filed a counter affidavit of the Assistant Commissioner of Police, Nallur Range, Tiruppur City, and the petition is opposed on its lines: the quantity is commercial and Section 37 of the Act applies; the petitioner drove the car, held its key, opened the boot and had hired the car by pledging the third accused's two-wheeler, and was in conscious possession; nothing has changed since the earlier dismissal; his claim to have no previous case is false; and he belongs to an inter-State syndicate and is likely to abscond. Reliance is placed on **Madan Lal v. State of Himachal Pradesh**,

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(2003) 7 SCC 465; **State of Kerala v. Rajesh**, (2020) 12 SCC 122; **Union of India v. Ram Samujh**, (1999) 9 SCC 429; and **Narcotics Control Bureau v. Mohit Aggarwal**, (2022) 18 SCC 374.

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

7. The Supreme Court in **Anand Dewar v. State of Chhattisgarh**, Criminal Appeal No.3943 of 2026, order dated 19.08.2026, dealing with one packet of ganja stated to weigh 22 kilograms and recovered from the rear trunk of a vehicle, held in paragraph 9:

> *"Though the contraband is stated to be 22 kgs, it prima facie appears that the weight is inclusive of the bag containing the contraband. Therefore, there is a possibility that the seized contraband could be below the commercial quantity, i.e. 20 kgs."*

That is a decision on how a quantity close to the threshold is to be reckoned.

8. Ganja is defined by Section 2(iii)(b) of the Act as

> *"the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they may be known or designated".*

The definition is of the tops. Seeds and leaves enter it only as they

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accompany the tops, and the words in the bracket exclude them when they do not. Leaves and seeds accompanied by the tops are part of the ganja, as held in **Shiv Kumar Mishra v. State of Goa**, (2009) 3 SCC 797, and I do not leave them out of account. Stalks and stems stand differently. They are neither tops, nor leaves, nor seeds, and the definition does not take them in at all. Dried cannabis found as one mass in a sack will ordinarily hold all of these: the tops, the leaves and seeds that cling to them, leaves and seeds that have broken away and lie loose in the bulk, and the stalks on which the tops grew. A single weighment of that mass records the weight of everything in it. It does not show how much of it is ganja within the definition. Where a seizure runs to a hundred kilograms or more, that makes no difference to the result. Where the stated weight lies close to 20 kilograms, it may decide whether Section 37 applies at all. The excess here is a little over two kilograms. The stalks in a mass of this size, such seeds and leaves in it as were not accompanied by the tops, and the sack in which the whole was carried may together account for a margin of that order.

9. That is why a learned Judge of this Court in **Ganesan v. State**, Crl.A. (MD) No.212 of 2020 and batch, dated 15.10.2025, held that where the tops are recovered with stalks and stems, their weight must be excluded, and that this is required in particular where the recovery weighs between 21 and 25 kilograms. It is for the prosecution, which invokes the bar, to place the material from which

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it can be seen that the threshold has been crossed. The petitioner does not have to show that the whole of the excess consists of excluded parts.

10. The first information report, as already noticed, records stalks in the contents of the sack, and the counter affidavit, in paragraph 3.3, describes them as *"leaves, flowers, and stems"*. The prosecution's own description therefore places stalks in the bulk. The first information report does not say that the sack was removed before the weighment at the spot, or that the stalks were separated. The counter affidavit puts the figure at "exactly 22.200 kilograms" and says nothing of either. The case lies within the band of which **Ganesan** (cited supra) speaks, and the margin is a little over two kilograms. I do not hold that the quantity is below the commercial quantity. That is a matter on which evidence will be led, and I leave it entirely to the Special Court. I hold only that there is a real possibility that the ganja, excluding the stalks, the seeds and leaves not accompanied by the tops, and the sack, is below the commercial quantity. On the present record, the rigour of Section 37 of the Act is not shown to be attracted.

11. **Killo Subbarao** (cited supra) is a decision of another High Court and is persuasive only. In so far as it treats leaves as outside the definition without asking whether they accompanied the tops, it does not sit with **Shiv Kumar Mishra** (cited supra), and I do not rest on it. Whether this petitioner knew what was in the boot is a question for the trial. The petitioner was eighteen years old

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when he was arrested, and no previous case is shown.

12. **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) each with two sureties, **of whom one shall be a blood surety,** 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 his identity;

[b] the petitioner shall appear before the trial court on all working days at 10.30 a.m., until further orders;

[c] He shall, within one week of his release, file before the Special Court an affidavit stating the mobile number and address at which he will reside while on bail, with proof of it, and shall not change that without prior intimation in writing to the Special Court and the respondent.

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

[e] the petitioner shall not tamper with the evidence or witness either during investigation or trial, and shall not maintain any contact with the witnesses to the occurrence,

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the officials dealing with the case, or any other person who might be connected to the occurrence;

[f] 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];**

[g] 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.

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To

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

2. The Superintendent, Central Prison, Coimbatore.

3. The Inspector of Police, Veerapandi Police Station, Tiruppur City.

4. The Public Prosecutor,
High Court of Madras.

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