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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2026

CORAM

THE HON'BLE MR.JUSTICE N.RAMESH

CRL.O.P.No.31311 of 2026

CNR: {HCMA012465042026}

Abdul Kalam ..Petitioner

Vs

The State Rep by The Inspector of Police,
PEW Ambattur,
Chennai.
Crime No.159 of 2025

..Respondent

PRAYER: To enlarge the petitioner on bail in C.C.No.1915 of 2025 on the file of the I Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai.

For Petitioner : Mr.Srikanth Kolla

For Respondent : Mr.Durai Gunasekaran,
Government Advocate.

ORDER

This is a petition for bail under the NDPS Act, 1985 (for short, "the Act"), filed under Section 483 of the BNSS. The petitioner is the **second accused (Abul Kalam)** in **Crime No.159 of 2025** on the file of the respondent police, registered for offences under **Section 8(c) read with Sections 20(b)(ii)(C) and 29(1)** of the Act. The final report has been taken on file as **C.C.No.1915 of 2025** by the learned **I Additional Special Judge, Special Court for EC and**

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NDPS Act Cases, Chennai.

2. The case of the prosecution, as recorded in the first information report, is this. At about 06.00 hours on **09.10.2025**, Tmt. S. Abarna, Sub-Inspector of Police, received information that one Nasu Seikh (A1) of West Bengal and the petitioner, Abul Kalam (A2) of Tripura, would come near the Ambattur Railway Station between 06.30 and 07.30 hours to sell ganja. At 07.10 hours, two men came walking there, each carrying a shoulder bag, and were stopped. They spoke in Hindi, and one Aasik, who knew Hindi and Tamil, was called to interpret. The black shoulder bag of the first accused held a parcel wrapped in khaki tape; inside it was a white gunny bag containing dry ganja with leaves and seeds, which was weighed on an electronic scale, found to be **"about 12 kilograms"**, and seized under a mahazar at 08.15 hours. **"About 11 kilograms"** were recovered in the same manner from the bag of the present petitioner (A2) and seized under a separate mahazar at 08.40 hours. Both were arrested at 09.00 hours. The prosecution adds the two recoveries together, **23 kilograms**, and treats the case as one of commercial quantity.

3. The petitioner was arrested on **09.10.2025** and remanded to judicial custody the same day. The samples reached the Forensic Sciences Department, Chennai, on 15.10.2025, and its report in **NAR.No.1914 of 2025 dated 29.10.2025** records that cannabinoids were detected in the samples referable to

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both accused. The final report was filed on **17.12.2025**, and charges are yet to be framed in **C.C.No.1915 of 2025**. The petitioner has been in custody for over a year.

4. Learned counsel for the petitioner submitted that separate seizures were made from the two accused under separate mahazars; that the first accused has already been granted bail by this Court in light of the subsequent decision of the Hon'ble Supreme Court in ***Anand Dewar v. State of Chhattisgarh*** (Criminal Appeal No. 3943 of 2026, decided on 19.08.2026) and ***Nadeem Ahamed v. State of West Bengal*** (2025 INSC 993, decided on 05.08.2025); that the quantity allegedly recovered from the petitioner is only **11 kilograms** (gross weight inclusive of the white gunny bag), which by itself is an intermediate quantity; that the petitioner hails from Sepahijala in Tripura while the first accused is from Barddhaman in West Bengal, and there is no independent material such as call detail records, money transactions, or travel documents connecting the two; that the petitioner has no previous case; and that he is entitled to bail on merits as well as on the ground of parity.

5. Learned Government Advocate (Criminal Side), on the counter affidavit of the Inspector of Police, Prohibition Enforcement Wing, Ambattur, opposed the petition. It is stated that **23 kilograms** of ganja, a commercial quantity, was jointly seized from both accused; that based on their confession

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statements, the accused had procured the contraband for personal gain; that the statutory requirements under the Act were complied with; and that since the petitioner hails from Tripura and has no roots in Tamil Nadu, he is likely to abscond, commit a similar offence, and tamper with evidence if released on bail.

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

7. While considering the bail application of the first accused in **C.C.No.1915 of 2025**, this Court examined the very same prosecution record and held as follows:

- First, relying on ***Anand Dewar v. State of Chhattisgarh*** (Criminal Appeal No. 3943 of 2026, decided on 19.08.2026), where the Supreme Court held that when contraband weighing slightly above 20 kilograms is weighed inclusive of the bag, the possibility that the net contraband falls below the commercial quantity threshold of 20 kilograms cannot be ruled out. Here, the seizure mahazars record gross weights of "about 12 kilograms" and "about 11 kilograms" inside white gunny bags wrapped with khaki tape, and neither the inventory nor the counter affidavit discloses the net weight excluding the packing.
- Second, relying on ***Nadeem Ahamed v. State of West Bengal*** (2025 INSC 993, decided on 05.08.2025), merely because two accused walking side-by-side were apprehended simultaneously with narcotic

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drugs, that coincidental circumstance by itself does not establish knowledge or conspiracy so as to club their individual recoveries without positive proof. Apart from the source information, joint interception, and confession statements (which are inadmissible under Section 23 of the Bharatiya Sakshya Adhiniyam, 2023), the counter affidavit points to no call detail records, financial transactions, or travel documents linking the petitioner from Tripura with the first accused from West Bengal.

8. The quantity allegedly recovered from the present petitioner (**about 11 kilograms**) is by itself an intermediate quantity. Adopting the reasoning already recorded in the bail order of the first accused, on the present record, it is not shown with the certainty that **Section 37** of the Act demands that the petitioner is answerable for a commercial quantity. Even if approached on the footing that Section 37 applies, the narrow margin above the threshold based on gross weights and the reliance solely on joint interception and confession statements for aggregation furnish reasonable grounds for believing that the petitioner is not guilty of an offence involving a commercial quantity. The counter affidavit does not allege any previous case against the petitioner, and nothing on record suggests that he is likely to commit an offence while on bail.

9. The petitioner hails from Sepahijala, Tripura, and has no known roots in Tamil Nadu, so the apprehension that he may not appear for the trial is real.

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However, as held in the case of the co-accused, the answer to that apprehension lies in imposing strict, verifiable, and enforceable conditions rather than continued pre-trial detention, particularly when the final report was filed on 17.12.2025 and charges are yet to be framed.

10. Accordingly, 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 i.e. one local surety and another one blood surety** each for a like sum to the satisfaction of the **learned I Additional Special Court for Exclusive Trial of Cases under NDPS Act Cases at 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)Before release, the petitioner shall file before the I-Additional Special Judge NDPS Act Cases, Chennai an affidavit giving his permanent address at Chupi, Barddhaman, West Bengal, with proof, the address at which he will reside while on bail, and his mobile number, with proof of each. He shall not change any of them without prior intimation in writing to the Special Court.

(c) the petitioner shall report before the respondent police

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daily at 10:30 A.M. until further orders;

[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;

[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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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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N.RAMESH, J.

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To

1.The I Additional Special Court for Exclusive Trial of Cases under NDPS Act Cases at Chennai.

2. The Superintendent of Police,
Central Prison, Puzhal, Chennai.

3. The Inspector of Police,
PEW Ambattur,
Chennai.

4.The Public Prosecutor
High Court, Madras.

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