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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2026

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THE HON'BLE MR.JUSTICE N.RAMESH

CRL.O.P.No.32951 of 2026

CNR: {HCMA012498212026}

Mohammad Nazim

..Petitioner

Vs

The Inspector of Police,
PEW - Guduvanchery Police Station,
Tambaram City PEW.
Crime No.172 of 2025.

..Respondent

PRAYER: To enlarge the petitioner, on regular bail in Crime No.172 of 2025 on the file of the Inspector of Police, PEW, Guduvancherry Unit, Tambaram Police Commissionerate, for the alleged offence under Section 8(c) read with Section 20(b)(ii)(C) of the NDPS Act, 1985, considering the alleged non-Compliance with Article 22(1) of the Constitution of India, the legally qualifying quantity of ganja, the issues concerning sampling and chain of custody, conscious possession and the period of judicial custody, and pass such further orders as this Court may deem fit and proper in the interests of Justice.

For Petitioner : Mr.Hemanth Raj T

For Respondent : Mr.M.M.I.Khaleel,
Government Advocate.

ORDER

This is a second petition for bail filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The petitioner is the sole accused in Crime No.172 of 2025 on the file of the respondent police, registered for the alleged

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offences punishable under Section 8(c) read with Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985. He was arrested and remanded to judicial custody on 28.11.2025. The earlier bail application filed by the petitioner in Crl.O.P.No.9789 of 2026 was dismissed by this Court on 04.06.2026.

2. The case of the prosecution is that the petitioner was found in illegal possession of 21 kgs of ganja. Hence, the case.

3. The learned counsel appearing for the petitioner submitted that the petitioner is the sole accused and is innocent of the offences alleged against him. He contended that the gross quantity allegedly seized from the petitioner is 21 kgs, which is just 1 kg above the commercial quantity threshold of 20 kgs. Pointing to the Forensic Science Laboratory (FSL) report, he submitted that the sample examined was described as containing dry greenish brown leaves, leaf stalks, flowering tops accompanied with seeds weighing 96.5 grams. Relying upon the definition under Section 2(iii)(b) of the NDPS Act and the judgment of this Court in **Ganesan v. The State, Crl.A.(MD) No. 212 of 2020 and batch, dated 15.10.2025**, he contended that since the contraband includes leaf stalks and stems, their weight must be excluded in borderline cases weighing between 21 and 25 kgs. He also relied upon the order of the Hon'ble Supreme Court in **Anand Dewar v. State of Chhattisgarh, Criminal Appeal No. 3943 of 2026, dated 19.08.2026**, wherein bail was granted on the ground that the gross weight included the container bag and the net weight could fall below the

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commercial threshold. He further submitted that the petitioner has been languishing in judicial custody for nearly one year since 28.11.2025, and therefore prayed for the grant of bail.

4. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent police vehemently opposed the grant of bail and submitted that 21 kgs of ganja, which is a commercial quantity, was seized directly from the possession of the petitioner, and that the statutory embargo under Section 37 of the NDPS Act squarely applies. He further submitted that the earlier bail petition filed by the petitioner in Crl.O.P.No.9789 of 2026 was dismissed on 04.06.2026, that there is no change in circumstances, and on instructions, he submitted that the petitioner has no previous cases pending against him.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. Ganja is defined under Section 2(iii)(b) of the NDPS Act as the flowering or fruiting tops of the cannabis plant, excluding the seeds and leaves when not accompanied by the tops. The commercial quantity threshold for ganja is 20 kgs, and the bar under Section 37(1)(b)(ii) of the Act is attracted only where the offence involves a commercial quantity. In **Ganesan v. The State (supra)**, this Court held that where the flowering or fruiting tops are not separately recovered and are weighed along with stalks and stems, the legal requirement is to exclude the weight of the stalks and stems, particularly in borderline cases where the recovered contraband weighs between 21 and 25

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kgs. Further, in **Anand Dewar v. State of Chhattisgarh (supra)**, the Hon'ble Supreme Court granted bail on a recovery of 22 kgs, observing that where the weight is inclusive of the bag containing the contraband, there is a real possibility that the actual contraband could fall below the commercial quantity of 20 kgs.

7. In the present case, the total recovery attributed to the petitioner is 21 kgs, leaving a narrow margin of only 1 kg above the commercial threshold. A perusal of the Forensic Science Laboratory report reveals that the sample sent for chemical analysis consisted of a polythene cover containing dry greenish brown leaves, leaf stalks, flowering tops accompanied with seeds weighing 96.5 grams. Thus, the presence of leaf stalks in the seized contraband is evident on record, and nothing demonstrates that the stalks, stems, and the bag or container were weighed separately and deducted from the gross weight of 21 kgs. Without expressing any opinion on the merits of the case, which is a matter for trial before the Special Court, this Court finds that there is a real possibility that the net contraband, excluding the stalks and container, falls below the commercial quantity of 20 kgs. Consequently, the statutory bar under Section 37 of the NDPS Act cannot be strictly applied against the petitioner at this stage.

8. Taking into consideration the borderline quantity of 21 kgs, the contents of the FSL report, the principles laid down in the aforesaid judgments, the absence of any previous criminal antecedents against the petitioner, and the

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prolonged period of incarceration undergone by the petitioner since 28.11.2025, this Court is inclined to grant bail to the petitioner.

9. 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 Additional District Judge, Principal Special Court under EC & 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 his identity;

[b] the petitioner shall report before the respondent 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 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];**

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[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of B.N.S.

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Note:

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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 Inspector of Police,
   PEW - Guduvanchery Police Station,
   Tambaram City PEW.

2. The Additional District Judge, Principal Special Court under EC & NDPS Act, Chennai.

3. The Superintendent,
   Central Prison, Puzhal – II.

4. The Public Prosecutor,
   Madras High Court.

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