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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-10-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP No. 31423 of 2026

CNR:{HCMA012533562026}

and

CRL MP No. 20855 of 2026

Ganesan @ Venkatakrishnan
S/o Raghuraman,
277, Makailamman Koil Veethi,
Mukasi Hanumanpalli Post,
Erode.

..Petitioner(s)

Vs

State by Inspector of Police
Arachalur Police Station,
Erode.
Crime No. 267/2022

..Respondent(s)

PRAYER: Criminal Original Petition filed under Section 528 of BNSS Act, praying to call for records in CC No. 184/2025 on the file of the Special Court for Essential Commodities and NDPS Act, Coimbatore and quash the charges against the petitioner.

For Petitioner(s): Mr.S. Patrick
For Respondent(s): Mr.R.Ganesh Kumar
Additional Public Prosecutor

ORDER

This petition has been filed to quash the proceedings in CC No. 184/2025 on the file of the Special Court for Essential Commodities and NDPS Act, Coimbatore, thereby taken cognizance for the offences under Sections 8(c) read with Sections 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

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2.The case of the prosecution is that on 04.11.2022 at about 10.30 a.m, while conducting vehicle checks at Avalpoondurai Four Roads on the Kangeyam-Erode Main Road, the police team attempted to stop a suspicious black two-wheeler carrying three individuals. Two pillion riders /A2 and A4 namely, Ajith @ Ajithkumar (22) and Fakeer Maideen Jameer(23), jumped off and were caught, while the rider escaped on the motorcycle. They identified the escaped rider as Ganesan and confessed that they were heading to buy ganja stored by Ganesan, the petitioner herein at the residence of Bala (A2) in Rasampalayam. They were formally arrested at 11.00 a.m accompanied by revenue witnesses IVAOR.Ponnar and Village Assistant A.John Nath). The police went to Rasampalayam and located A2, who was bedridden recovering from a leg fracture and he admitted that A1 had paid him to stash three travel bags filled with ganja packets in his house and A1 was arrested at 2.30 p.m. A total of approximately 19 kg 800 grams of ganja across the 11 packets seized from the accused (at approximately 1 kg 800 grams each after sampling), along with 11 sample packets of 100 grams each collected from every packet for chemical analysis, were secured. After completion of investigation, the respondent filed final report and the same has been taken cognizance by the trial Court.

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

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4.There are totally four accused in this case, in which, the petitioner is arrayed as A1. The specific case of the prosecution is that the petitioner has been implicated as an accused only based on the confession statement of the second and third accused, alleging that the first accused along with the second and third accused were travelling in a motorcycle and after seeing the police personnels, A2 and A2 jumped from the two wheeler in order to escape. However they were caught hold by the respondent herein and the first accused flew away from the scene of occurrence with his motorcycle. Subsequently, the first respondent went to the house of the second accused and recovered the contrabands weighing about 19 kg 800 grams. Further, the allegation against the first accused is that the first accused used to purchase the contraband and stored in the house of the second accused. Thereafter, the contraband to be sold by all the accused. However, there is no recovery from A1. That apart, though the prosecution specifically alleged that the first accused along with the third and fourth accused were travelling in a motorcycle, the first accused escaped from the scene of occurrence. The prosecution has failed to recover the motor cycle which was allegedly driven by the first accused in which A3 and A4 were also travelling as pillion riders. Further, the prosecution has also failed to produce the call details to connect the first accused with the other accused. Considering the facts and circumstances of the case, this Court granted anticipatory bail to the first accused/petitioner herein.

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5.A perusal of the entire records, including the FIR, seizure mahazar, statements of witnesses and the final report, would clearly demonstrate that, even if the entire case of the prosecution case is taken at its face value and accepted in its entirety, the same does not disclose the commission of any offence against the first accused. The materials collected during the course of investigation do not constitute any legally admissible or incriminating evidence connecting the petitioner/first accused with the alleged contraband recovered from A3 and A4. Therefore, the first accused has been implicated solely on the basis of the confession statements of A3 and A4. Further, there are no allegations or materials to establish the conscious possession, knowledge, participation, or any nexus between the petitioner/first accused and the alleged contraband.

6.Furthermore, the confession statement of a co-accused cannot form the basis of the prosecution in the absence of any legally admissible material. The alleged confession statement of the co-accused recorded by the police is hit by Section 23 of the BSA, corresponding to Section 25 of the Indian Evidence Act, 1872, and is inadmissible in view of the law laid down by the Honourable Supreme Court of India in ***Tofan Singh Vs. State of Tamil Nadu***, reported in ***(2021) 4 SCC 1***, wherein it was held that the officers invested with powers under Section 53 of the NDPS Act are “police officers” within the meaning of Section 25 of the Indian Evidence Act and that a confessional statement

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recorded under Section 67 of the NDPS Act cannot be used as a confessional statement against an accused in the trial of an offence under the NDPS Act. Consequently, in the present case also, the alleged confession statement of the co-accused cannot be constituted as legally admissible evidence against the petitioner. Equally, the confession statement of the co-accused also cannot be translated into admissible evidence at the stage of trial. Therefore, the continuation of criminal proceedings against the first accused is unsustainable in law and amounts to an abuse of process of law. Hence, on this ground alone, the impugned proceedings is liable to be quashed insofar as the first accused is concerned.

7.Accordingly, the proceedings in CC No. 184/2025 on the file of the Special Court for Essential Commodities and NDPS Act, Coimbatore, is hereby quashed against the petitioner/first accused alone is concerned, and the Criminal Original Petition stands allowed. The trial Court is directed to proceed with the trial against the other accused, namely, A2 to A4, in accordance with law. Consequently, connected miscellaneous petition is closed.

29-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

1.The the Special Court for Essential Commodities and NDPS Act, Coimbatore

2.State by Inspector of Police
Arachalur Police Station,
Erode.
Crime No. 267/2022

3.The Public Prosecutor
High Court of Madras.

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