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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-11-2026

CORAM

THE HON'BLE MR.JUSTICE N.RAMESH

CRL OP No. 31308 of 2026

CNR: {HCMA012556372026}

Case QR

Banu
W/o.Srinivasan,
28B Ramar Koil Street,
Mahatma Gandhi Nagar, Ttti Taramani,
Chennai-600 113.

..Petitioner(s)

Vs

The State Rep by The Investigation Officer
Customs RSI-AIR,
Chennai-600 016.

..Respondent(s)

Prayer : Criminal Original Petition filed under Section 482 of BNSS praying to enlarge the petitioner on bail in RR.No.47 of 2026 on the file of Investigation Officer Customs RSI-AIR, Chennai

For Petitioner(s): Mr.G.Saravanakumar

For Respondent(s): Mr.K.Purushothaman
Special Public Prosecutor

ORDER

This is a petition for regular bail in a case under the NDPS Act, under Section 483 of the BNSS. The petitioner is the first accused in R.R. No. 47 of 2026 (O.S. No. 698/2026-AIU-C) on the file of the Superintendent of Customs, RSI Unit (Airport), Chennai, for offences under Sections 8(c), 20(b)(ii)(B) and 23(b) of the NDPS Act.

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2. The case of the prosecution, briefly stated, is this. In the early hours of 27.09.2026 the petitioner, who had arrived at Chennai from Kuala Lumpur, was intercepted at the green channel by officers of the Air Intelligence Unit. Nothing was found on her person or in her cabin bag. Her checked-in trolley bag had a false bottom, and the cavity held four air-tight packets of green flowering and fruiting tops, which tested positive in the field test for **hydroponic ganja**. The contents weighed 3,424 grams after the packing of 192 grams was excluded, and were seized under a mahazar attested by two independent witnesses.

3. Ganja is entered at Serial No. 55 of the Table to Notification S.O. 1055(E) dated 19.10.2001, and the quantity seized from this petitioner is an intermediate quantity. The petitioner was arrested the same day and remanded to judicial custody, and on the date of this order she has been in custody for one month and eight days.

4. Learned counsel for the petitioner made these submissions:

[a] the petitioner did not know what the bag contained; it was handed to her at Kuala Lumpur by an acquaintance, and she was not in conscious possession of the contraband;

[b] the persons who gave her the bag, and on whose account it was carried, have not been arrested;

[c] she will co-operate with the investigation, will not tamper with the witnesses, and will abide by any condition this Court imposes.

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[d] hydroponic ganja is ganja within Section 2(iii)(b) of the Act, and the quantity seized is an intermediate quantity, as held by a coordinate Bench of this Court in **Vinoy Soni v. Union of India, Crl.O.P.(MD) No. 18133 of 2026, dated 02.09.2026**, and by the Orissa High Court in **Kizakkekalayil Anujikumar Anujith v. Union of India**, BLAPL No. 4294 of 2025, dated 08.01.2026.

5. The respondent has filed a counter affidavit and the petition is opposed on its lines: the manner of concealment; the payment and the sponsored ticket said to have been offered to her; the handover that was to take place to a person not yet identified; and the apprehension that, if released, she may contact the persons connected with the transaction or alert them.Reliance is placed on **Karan Mehra v. Union of India, S.B. Criminal Miscellaneous Bail Application No. 8926 of 2025, dated 07.10.2025** of the Rajasthan High Court.

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

7. The quantity being intermediate, the petition falls to be decided on the principles that ordinarily govern bail: the nature and gravity of the accusation, the severity of the punishment, the material in support of the accusation, and the danger of the accused absconding or of the evidence being interfered with, as held in **Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496**.

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8. I take first the material. All that the counter affidavit says of the offer of Rs. 40,000/-, the sponsored ticket and the arrangement for delivery comes from the petitioner's own statement under Section 67 of the Act. A statement of that kind cannot be used as a confession in the trial of an offence under the Act, as held in **Tofan Singh v. State of Tamil Nadu, (2021) 4 SCC 1**. What remains is the recovery from the false bottom of the bag she checked in, under the mahazar already referred to. That is material of substance, and the plea that she did not know what the bag held does not displace it at this stage. Whether she was in conscious possession is a matter for the trial, and I leave it open.

9. I turn to the gravity of the accusation and to the reasoning of the Special Court. The bringing of a narcotic drug into the country, concealed in a cavity built into a suitcase, is a grave circumstance, and the Special Court was right to weigh it. But the quantity is an intermediate one, and the maximum sentence is ten years. The contraband has been seized, weighed and sealed, and the bag and the packets are in the custody of the respondent. Nothing remains to be recovered from or through the petitioner, and the counter affidavit does not allege any previous case against her. The mode of transportation is a reason for firm conditions, and it is answered by them; on this record it does not call for her continued detention.

10. The reliance on **Karan Mehra** (cited supra) goes to the same question of gravity. There, bail was declined for 18.534 kilograms of

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hydroponic weed on its potency, a stated value of about Rs. 18 crore, and the apprehension that consignments are kept below the commercial quantity by design. That decision is persuasive and not binding, and it rested on material that is not before me. The counter affidavit says nothing of the potency or the value of what was seized, or of any syndicate to which the petitioner belongs, and the report of the chemical examiner is not on record. Nor does potency change the quantity. Section 2(iii)(b) of the Act defines ganja as the flowering or fruiting tops of the cannabis plant, *"by whatever name they may be known or designated"*, and the notification grades it by weight. In **Vinoy Soni** (cited supra), a coordinate Bench dealt with a seizure of hydroponic weed from a passenger arriving at an airport from Kuala Lumpur, considered **Karan Mehra**, and held that in the absence of a chemical analysis the name of the substance could not decide its classification; the Orissa High Court took the same view in **Kizakkekalayil Anujikumar Anujith** (cited supra). I respectfully agree. Whatever the potency of the substance may prove to be, it goes to the gravity of the accusation, which I have weighed; it does not make an intermediate quantity a commercial one.

11. The apprehension in paragraph 13 of the counter affidavit is that the petitioner, if released, may contact the persons who arranged her travel and the bag, or alert them. The material that the respondent says it has still to gather consists of travel and booking records, communication records, digital material and financial transactions. That material lies with carriers, service providers and banks, and the counter affidavit does not say what

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part of it depends on the petitioner remaining in custody, after more than five weeks of it. The petitioner has a permanent address in Chennai. The danger of her leaving the country, which the journey that brought her here makes real, is met by a direction that she shall not leave India without the permission of the Special Court, and the apprehension of contact by a specific condition.

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) with two sureties,** each for a like sum to the satisfaction of the **learned Special Court for Customs, Alandur,** 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) the petitioner shall report before the respondent police 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;

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[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];**

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

[g] the petitioner shall not leave India without the prior permission of the Special Court.

[h] the petitioner, within one week of her release, she shall file before the Special Court an affidavit stating the address at which she will reside while on bail and the mobile number on which she can be reached, with proof of each, and she shall not change either without prior written intimation to the Special Court and to the respondent.

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To

1. Special Court for Customs, Alandur

2. The Investigation Officer
Customs RSI-AIR,
Chennai-600 016.

3. The Superintendent,
Central Prison for Women II, Puzhal, Chennai

4. The Public Prosecutor,
Madras High Court.

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N.RAMESH, J.

SMA

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