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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2026

CORAM

THE HON'BLE MR.JUSTICE N.RAMESH

CRL.O.P.No.31975 of 2026

CNR: {HCMA012587012026}

Motibul Sekh ..Petitioner

Vs

The State Rep by, Inspector of Police,
PEW-Tambaram.
Crime No. 27 of 2025. ..Respondent

PRAYER: To enlarge the Petitioner on bail in C.C.No.652 of 2025 pending on the file of the 2nd Additional Special Judge, Special Court for EC and NDPS Act Cases, Chennai.

For Petitioner : Mr.M.G.Martin Manivannan,
For Mr.K.Anandha Raja

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 25.02.2025 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, in Crime No.27 of 2025 pending on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner, who is arrayed as the sole accused, was found in illegal possession of 22 kgs of Ganja. Hence, the case.

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3. The learned counsel appearing for the petitioner submitted that the petitioner is innocent and has been falsely implicated in this case. He pointed out that the seizure mahazar (at page 12) does not contain the signature of either the accused or the translator. Further, while the FIR (at page 22) reflects that the petitioner was arrested on 25.02.2025, the inventory mahazar (at page 32) is dated 27.02.2025, creating a material discrepancy regarding the date of seizure.

4. The learned counsel further submitted that the samples were forwarded by the NDPS Court to the Forensic Science Laboratory (FSL) only on 09.04.2025, resulting in an unexplained delay of more than 40 days. Moreover, the FSL report describes the contraband received as dry greenish-brown leaves, leaf stalks, flowering tops, and seeds weighing 52.2 grams and 49.5 grams respectively (net weight of the samples). Relying on the judgment of this Court in ***Ganesan v. The State*** **[Crl.A.(MD).No.212 of 2020, decided on 15.10.2025 / 2025 LiveLaw (Mad) 387]**, he contended that stalks, stems, loose leaves, and seeds cannot be included to determine commercial quantity under Section 2(iii)(b) of the NDPS Act, and prayed for grant of bail.

5. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent police vehemently opposed the bail petition, stating that the contraband involved is 22 kgs of Ganja, which is of commercial quantity, and hence the bar under Section 37 of the NDPS Act is attracted. He further submitted that the investigation is pending and prayed for dismissal of this petition.

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6. Heard both sides and perused the materials available on record.

7. A perusal of the records reveals vital procedural discrepancies in the prosecution case. While the FIR records the arrest and seizure as having taken place on 25.02.2025, the seizure mahazar lacks the signature of the accused and the translator, and the inventory mahazar is dated 27.02.2025. Furthermore, there is an unexplained delay of over 40 days in forwarding the samples to the FSL on 09.04.2025.

8. That apart, the FSL report indicates that the samples consisted of dry greenish-brown leaves, leaf stalks, flowering tops, and seeds (weighing 52.2 grams and 49.5 grams respectively), without segregating the flowering or fruiting tops from the leaves, stalks, and seeds. Following the ratio laid down by this Court in ***Ganesan v. The State*** **[Crl.A.(MD).No.212 of 2020, 2025 LiveLaw (Mad) 387]**, when non-psychoactive parts like stalks and seeds are weighed together with the flowering tops without proper segregation, the exact weight of the contraband qualifying as "Ganja" under Section 2(iii)(b) of the Act becomes doubtful, particularly when the total seized quantity of 22 kgs is marginally above the commercial threshold.

9. Considering the above procedural lapses, the nature of the FSL report, and the period of incarceration undergone by the petitioner since 25.02.2025, this Court is satisfied that there are reasonable grounds to believe that the petitioner may not be found guilty of possessing commercial quantity, thereby satisfying the twin conditions under Section 37 of the NDPS Act. Accordingly,

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this Court is inclined to grant bail to the petitioner, subject to certain conditions.

10. 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, each for a like sum to the satisfaction of the **learned 2nd Additional Special Judge, Special Court for EC and NDPS Act Cases, 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 Trial Court on all working days 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, and shall not maintain any contact with the witnesses to the occurrence, the officials dealing with the case, or any other person who might be connected to the occurrence;

[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

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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.

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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 2nd Additional Special Judge, Special Court for EC and NDPS Act Cases, Chennai.

2. The Superintendent, Central Prison – 1, Puzhal, Chennai.

3. The Inspector of Police, PEW-Tambaram.

4. The Public Prosecutor, High Court of Madras.

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