WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2026

CORAM

THE HON'BLE MR.JUSTICE N.RAMESH

CRL.O.P.No.32986 of 2026

CNR: {HCMA012620362026}

Lokesh

..Petitioner

Vs

State rep. by The Inspector of Police,
PEW St. Thomas Mount Police Station,
Chennai.
Crime No.208/2025

..Respondent

PRAYER: To enlarge the petitioner/A1 on bail in connection with Crime No.208 of 2025 on the file of the respondent police, registered for the alleged offences punishable under section 8(c) read with Section 20(b)(ii)(C) and 29(1) of the NDPS Act, 1985, now pending trial in C.C .No.605 of 2026 on the file of the learned I Additional Special Judge, Special Court for EC and NDPS Act Cases, Chennai, on such terms and condition as this Court may deem fit.

For Petitioner : Mr.Hemanth Raj T

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

ORDER

This is a second petition for bail filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The petitioner is arrayed as Accused No.1 in Crime No.208 of 2025 on the file of the respondent police, registered for the alleged offences punishable under Sections 8(c) read with 20(b)(ii)(C) and 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985, now

https://www.mhc.tn.gov.in/judis

WEB COPY

Order QR

pending trial in C.C.No.605 of 2026 on the file of the learned I Additional Special Judge, Special Court for EC and NDPS Act, Chennai. He was arrested and remanded to judicial custody on 25.11.2025. The earlier bail application filed by the petitioner in Crl.O.P.No.12056 of 2026 was dismissed by this Court on 16.06.2026 on the ground that the alleged recovery of 21 kgs of ganja was of commercial quantity.

2. The case of the prosecution is that the petitioner (A1) along with the other accused persons were found in illegal possession of 21 kgs of ganja without any valid license or permit. Hence, the case.

3. The learned counsel appearing for the petitioner submitted that the petitioner has been arrayed as Accused No. 1 and is innocent of the offences alleged against him. He contended that the gross quantity allegedly seized in this case 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 samples drawn from the two parcels were described as polythene covers containing dry greenish brown broken leaves, leaf stalks, flowering tops accompanied with seeds weighing 51.4 grams and 50.08 grams respectively as net weight. 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

https://www.mhc.tn.gov.in/judis

WEB COPY

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 commercial threshold. He further submitted that the investigation is completed, the final report has been taken on file in C.C.No.605 of 2026 on the file of the learned I Additional Special Judge, Special Court for EC and NDPS Act, Chennai, and the petitioner has been languishing in judicial custody for over one year since 25.11.2025, 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 from the petitioner and the co accused, 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.12056 of 2026 was dismissed on 16.06.2026, that the case is now pending trial in C.C.No.605 of 2026, and that if released on bail, the petitioner is likely to abscond and protract the trial.

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

https://www.mhc.tn.gov.in/judis

WEB COPY

Order QR

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 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 and the co accused 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 each parcel sample sent for chemical analysis consisted of a polythene cover containing dry greenish brown broken leaves, leaf stalks, flowering tops accompanied with seeds weighing 51.4 grams and 50.08 grams respectively. Thus, the presence of leaf stalks in the seized contraband is evident on record, and nothing demonstrates that the stalks, stems, and the bags or containers 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

https://www.mhc.tn.gov.in/judis

WEB COPY

Order QR

is a real possibility that the net contraband, excluding the stalks and containers, 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 fact that the final report has already been filed in C.C. No. 605 of 2026 on the file of the learned I Additional Special Judge, Special Court for EC and NDPS Act, Chennai, and the prolonged period of incarceration undergone by the petitioner since 25.11.2025, this Court is inclined to grant bail to the petitioner.

9. Accordingly, the petitioner is ordered to be released on bail on her 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 I Additional Special Judge, 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 her identity;
>
> [b] the petitioner shall report before the Trial Court on all working days at 10:30 A.M. until further orders;

https://www.mhc.tn.gov.in/judis

WEB COPY

Order QR

[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];**

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

26.11.2026

kmm

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.

https://www.mhc.tn.gov.in/judis

WEB COPY

Order QR

To

1. The Inspector of Police,
PEW St. Thomas Mount Police Station,
Chennai.

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

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

4. The Public Prosecutor,
Madras High Court.

https://www.mhc.tn.gov.in/judis

WEB COPY

Order QR

N.RAMESH

kmm

CRL.O.P.No.32986 of 2026

26.11.2026

https://www.mhc.tn.gov.in/judis