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Crl.O.P.No.3244



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2026

CORAM :

THE HON'BLE MR. JUSTICE K. RAJASEKAR

CRL OP No.32446 of 2025

Mukilan

.. Petitioner

Vs.

The State Rep by
The Inspector of police,
Pew Pallikaranai Police Station,
Chennai District.
(Crime No.11/2025)

..... Respondent

Prayer: This petition is filed under section 483 of BNSS to enlarge the petitioner on bail in C.C.No.634 of 2025 pending on the file of the Special Judge EC/NDPS cases, Chennai and pass orders.

For Petitioner : Mr.C.R.Gokul Viswas

For Respondent :Mr.A.Gopinath
Government Advocate

O R D E R

The petitioner, who was arrested and remanded to judicial custody on 15.02.2025 in C.C.No.634 of 2025, pending on the file of the Special Judge EC/NDPS cases, Chennai, for the alleged offence under Sections 8(c), 20(b) (ii) (c) & 29(1) of NDPS Act, 1985 in Crime No.11 of 2025 on the file of the respondent police, seeks bail.



2. The case of the prosecution is that the petitioner along with other accused were found in possession of 24 kgs of ganja. Hence, the case.

3. The learned counsel for the petitioner submitted that the petitioner is innocent and he is no way connected with the offence as alleged by the prosecution. The further contention of the petitioner is that the petitioner along with other accused were found in possession of 24 kgs of ganja, but each of the accused were carrying only 8 kgs of ganja. Hence, Section 37 of NDPS Act is withheld as each person were containing 8 kgs of ganja, which is an intermediate quantity. The learned counsel for the petitioner further submitted that there was no independent witness before the search and seizure and there is a violation. Hence, prays to grant bail to the petitioner.

3. The learned Government Advocate appearing for the respondent would submit that since, this Court while considering the earlier bail petition of the petitioner in Crl.O.P.No.8952 of 2025 on 23.06.2025 has observed that the petitioner failed to fulfill the twin condition as contemplated under Section 37 of the NDPS Act, 1985 and the very same point cannot be considered again by this Court. The learned Government Advocate relied on the Judgment of this Court in the case of *Mukesh Singh Vs State (Narcotic Branch of Delhi)* reported in



(2020) 10 Supreme Court Cases 120, wherein, it was held that that according to sections 35 and 54, if the informant who himself has seized the offending material from the accused and he himself thereafter investigates the case, there shall be all possibilities of apprehension in the mind of the accused that there shall not be fair investigation or not and that the officer concerned shall try to prove his own version/seizure and therefore there shall be denial of fair investigation enshrined under Article 21 of the Constitution of India is concerned, it is required to be noted that whether the fair investigation or not is always to be decided at the time of trial. The information/investigator concerned will be cited as a witness and he is always subject to cross-examination. There may be cases in which even the case of the prosecution is not solely based upon the deposition of the informant/informant-cum-investigator but there may be some independent witness and /or even the other police witnesses. As held by this Court in a catena of decision, the testimony of police personnel will be treated in the same manner as testimony of any other witness and there is no principle of law that without corroboration by independent witness his testimony cannot be relied upon. Further in the very same Judgment it was observed that whether the investigation conducted by the informant is fair or not is always to be decided at the time of trial.



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4. Heard both sides and perused the materials on record.

5. The main contention of the petitioner is that the investigation is not conducted in a fair manner. On going through the above Judgment passed by the Apex Court it is made clear, that whether the investigation is not conducted in a fair manner or not has to be decided only during the Trial.

6. In view of the above and also considering the facts and circumstance of the case and also the fact that after dismissal of earlier bail petitions and there is no change in circumstances, this Court is not inclined to grant bail to the petitioner and this petition is dismissed.

08.01.2026

smn

To

1.The Inspector of police,
Pew Pallikaranai Police Station,
Chennai District. .

2.The Public Prosecutor,
High Court, Madras.



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K. RAJASEKAR, J.

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