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Crl.O.P.No.4148 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2026

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.4148 of 2026

Abou

... Petitioner

-Vs-

State rep. by
Inspector of Police,
D-2 Anna Salai Police Station,
Chennai.
Cr.No.118 of 2025

... Respondent

Criminal Original Petition filed under Section 528 of B.N.S.S, to set aside order in Crl.M.P.No.7268 of 2025 imposed by the Principal Special Judge for EC and NDPS Act Chennai passed on 06.12.2025.

For Petitioner : Mr.N.M.Velan

For Respondent : Mr.S.Santhosh
Government Advocate (Crl.side)

ORDER

This Criminal Original Petition has been filed to set aside the order passed in Crl.M.P.No.7268 of 2025, by the learned Principal Special Judge for EC & NDPS Act, Chennai.



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2. The petitioner, who is a Nigerian national, is an accused in Crime No.118 of 2025, registered by the respondent police for the offences under Sections 8(c) read with 20(b)(ii)(A), 22(b), 25 and 29(1) of the NDPS Act. While so, the Special Court had granted statutory bail to the petitioner vide order dated 24.10.2025 with certain conditions. Two of those conditions read as under:

“2. The petitioner/accused is ordered to be released on bail, on executing a bond for Rs.1,00,000/- (Rupees One Lakh only) with two acceptable and reliable sureties for like amount to the satisfaction of this Court.

4. The petitioner/Accused shall deposit of Rs.1,00,000/- (Rupees One Lakh only) to the credit of Cr. No.118/2025 of D2, Anna Salai before the Principal Special Court under EC & NDPS Act, Chennai before furnishing sureties.”

3. The petitioner filed a petition in Crl.M.P.No.7268 of 2025 seeking modification of the aforesaid two conditions which was dismissed *vide* order dated 06.12.2025. Thereagainst, the present petition has been filed.

4. The learned counsel appearing for the petitioner submitted that the condition imposed on the petitioner *qua* depositing a sum of Rs.1,00,000/- is onerous and it would amount to granting bail on the one hand and denying bail by this onerous condition; that apart, there is no provision in the Cr.P.C., which contemplates deposit of cash as a condition precedent for grant of bail;



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however, the petitioner is ready to furnish two local sureties who are ready to execute a bond for Rs.25,000/- each; further, even if the petitioner is granted bail, he has to only stay in the special camp for foreign nationals and hence, the likelihood of his abscondance is also bleak. Based on these submissions, the learned counsel for the petitioner sought setting aside of the impugned order.

5. *Per contra*, the learned Government Advocate (Crl.Side) appearing for the respondent police submitted that even if the petitioner is released on bail, he would be taken to the Special Camp.

6. That the petitioner, a Nigerian national, was arrested on 09.03.2025 and was granted statutory bail on 24.10.2025 are not in dispute. In **Saravanan Vs. State** reported in (2020) 9 SCC 101, the Hon'ble Supreme Court has held that imposing condition to deposit a huge amount while releasing the accused on default bail/statutory bail would frustrate the very object and purpose of default bail under Section 167(2) CrPC.. The relevant paragraph of the said judgment reads as under:

“9. Having heard the learned counsel for the respective parties and considering the scheme and the object and purpose of default bail/statutory bail, we are of the opinion that the High Court has committed a grave error in imposing condition that the appellant shall deposit a sum of Rs 8,00,000 while releasing the appellant on default bail/statutory bail. It appears that the High Court has imposed such a condition taking into consideration the fact that earlier at the time of hearing of the regular bail application, before the learned



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Magistrate, the wife of the appellant filed an affidavit agreeing to deposit Rs 7,00,000. However, as observed by this Court in catena of decisions and more particularly in *Rakesh Kumar Paul* [*Rakesh Kumar Paul v. State of Assam*, (2017) 15 SCC 67 : (2018) 1 SCC (Cri) 401] , where the investigation is not completed within 60 days or 90 days, as the case may be, and no charge-sheet is filed by 60th or 90th day, the accused gets an “indefeasible right” to default bail, and the accused becomes entitled to default bail once the accused applies for default bail and furnish bail. Therefore, the only requirement for getting the default bail/statutory bail under Section 167(2) CrPC is that the accused is in jail for more than 60 or 90 days, as the case may be, and within 60 or 90 days, as the case may be, the investigation is not completed and no charge-sheet is filed by 60th or 90th day and the accused applies for default bail and is prepared to furnish bail. No other condition of deposit of the alleged amount involved can be imposed. Imposing such condition while releasing the accused on default bail/statutory bail would frustrate the very object and purpose of default bail under Section 167(2) CrPC. As observed by this Court in *Rakesh Kumar Paul* [*Rakesh Kumar Paul v. State of Assam*, (2017) 15 SCC 67 : (2018) 1 SCC (Cri) 401] and in other decisions, the accused is entitled to default bail/statutory bail, subject to the eventuality occurring in Section 167 CrPC, namely, investigation is not completed within 60 days or 90 days, as the case may be, and no charge-sheet is filed by 60th or 90th day and the accused applies for default bail and is prepared to furnish bail. ” (emphasis supplied)

7. In view of the above categorical and authoritative pronouncement of the Supreme Court, conditions 2 and 4 imposed by the Trial Court which are extracted in paragraph 2, *supra*, are hereby set aside. Instead, the petitioner shall execute a bond for Rs.25,000/- and provide two sureties, each for a like sum. All other conditions imposed by the trial Court shall remain unaltered. Accordingly, this Criminal Original Petition is partly allowed.

19.02.2026

Note: Issue on 20.02.2026

rpl/cad

Speaking/Non Speaking order



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To
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- 1.The Principal Special Judge for EC & NDPS Act, Chennai.
- 2.The Inspector of Police,
D-2 Anna Salai Police Station,
Chennai.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai.



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A.D.JAGADISH CHANDIRA . J,

rpl/cad

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