



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24-02-2026

CORAM

THE HONOURABLE MRS JUSTICE S.SRIMATHY

CRL OP(MD) NO. 3063 of 2026

Siluvairaj

Petitioner(s)

Vs

The Union of India
rep by The Intelligence Officer,
Narcotic Control Bureau
Madurai Sub Zone, Madurai

(NCB F.No.48/1/04/2022/NCB/MDU)

Respondent(s)

For Petitioner(s): Mr.J. Vijayaraja

For Respondent(s): Mr.Arul Vadivel @ Sekar, Special Public Prosecutor

Prayer:

C-32B.To enlarge the petitioner on bail who is in Judicial Custody CC.No.444/2024 on the file of the learned Principal Additional District and Sessions Judge, Special Court for EC and NDPS Cases, Madurai.

ORDER

The petitioner/Accused No.4, who was arrested and remanded to judicial custody on 28.07.2025 for the offences punishable under Sections 8(c) read with 20(c), 29 of NDPS Act in NCB F.No.48/1/04/2022/NCB/MDU, on the file of the respondent, seeks bail.

2.The case of the prosecution is that the respondent seized 4.440 kg of dark



greenish sticky viscous liquid which is believed to be hashish oil. Hence, this case.

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3. The learned counsel for the petitioner submits that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. However, he has been arrested and he is languishing in jail from 28.07.2025. Therefore, he prays for grant of bail. Further, the petitioner was arrayed as accused based on the confession and there is no previous case against the petitioner.

4. The learned Special Public Prosecutor appearing for the respondent vehemently opposed for grant of bail stating that the CDR calls are in favour of the prosecution. The petitioner has made phone calls 710 times to the 1st accused and has made 420 times to the 2nd accused, hence the prosecution submitted that based on the CDR calls the petitioner has not satisfied the twin condition and he is not entitled to bail.

5. While considering the bail application under NDPS, the Court ought to consider whether the accused is satisfying the twin tests stated in section 37 of the NDPS Act, since the provision states that no person is entitled to bail unless the accused is satisfying the twin test prescribed under the section. The said section is



extracted hereunder:

"[37. Offences to be cognizable and non-bailable.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for 3[offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

i. the Public Prosecutor has been given an opportunity to oppose the application for such release, and

ii. where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.]"

6. The section states to issue notice to the Public Prosecutor. This Court had issued notice to the Public Prosecutor and the learned Special Public Prosecutor appearing for the respondent / prosecution vehemently opposed for granting bail. Hence the said condition is satisfied.



7. The section further states if the Public Prosecutor opposes the bail, then the Court ought to satisfy itself the twin test,

- i. *that there are reasonable grounds for believing that he is not guilty of such offence and*
- ii. *that he is not likely to commit any offence while on bail.*

8. The petitioner was arrayed based on the confession of the co-accused. But the prosecution submitted that the not only based on bare confession, but the same is coupled with CDR details the petitioner is arrayed as accused. But the petitioner submitted that the Hon'ble Supreme Court had held that based on CDR alone the accused cannot be convicted and had relied on the judgment rendered in the ***State of (NCB) Bengaluru Vs. Pallulabid Ahmad Arimutta and another*** batch cases Special Leave to Appeal (Crl)No.242 of 2022 arising out of Diary No.22702 of 2020, wherein the Hon'ble Supreme Court has held as under:

"The CDR details of some of the accused or the allegations of tampering of evidence on the part of one of the respondents is an aspect that will be examined at the stage of trial. For the aforesaid reason, this Court is not inclined to interfere in the orders dated 16 September, 2019, 14th January, 2020, 16th January, 2020, 19th December, 2019 and 20th January, 2020 passed in SLP (Crl.) No@ Diary No. 22702/2020, SLP (Crl.) No. 1454/2021, SLP (Crl.) No. 1465/2021, SLP (Crl.) No. 1773-74/2021 and SLP (Crl.) No. 2080/2021 respectively. The impugned orders are, accordingly, upheld and the Special Leave Petitions filed by the petitioner-NCB seeking cancellation of bail granted to the respective respondents, are dismissed as meritless."



9. In the aforesaid judgment it is held based on CDR alone a person cannot be convicted. Further it is settled law that based on confession of co-accused alone a person cannot be convicted. Hence there is a chance to hold that the petitioner may not be guilty. Therefore, the petitioner is satisfying the first test.

10. There is no previous case against the petitioner and therefore there is chance that the petitioner is not likely to commit the same offence when he is on bail. Therefore, the petitioner is satisfying the second test as well.

11. Since the petitioner is satisfying the twin test stated in Section 37, this Court is inclined to grant bail with the strict conditions.

12. Accordingly, the petitioner is ordered to be released on bail, on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Principal Additional District and Sessions Judge, Special Court for EC and NDPS cases, Madurai, and on further conditions that,

a)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;



b)the petitioner shall stay at Madurai not leave Madurai. The petitioner shall report before Trial Court at 10.30 a.m. and 05.00 p.m. until further orders. Relaxation will not be considered;

c)the petitioner shall not tamper with evidence or witness;

d)the petitioner shall not abscond during trial;

e)On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the 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)AIR SCW 5560].

f) If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of BNS.



13. It is seen that 5th accused is still absconding. Therefore, the Trial Court is directed to conduct split up trial for the petitioner / 4th accused separately and complete the trial within a period of three months from the date of receipt of a copy of this order.

24-02-2026

Tmg

To

1. Principal Additional District and Sessions Judge,
Special Court for EC and NDPS cases,
Madurai.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

3.Central Prison,
Madurai.