

Crl.OP(MD).No.3378 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 22.06.2026

ORDER PRONOUNCED ON : 01.07.2026
CORAM

THE HONOURABLE MR JUSTICE R.VIJAYAKUMAR

Crl.OP(MD).No. 3378 of 2026

Kannan

....Petitioner/Accused No.3

Vs

State of Tamil Nadu Rep.by
The Inspector of Police
Othakadai Police Station
Madurai City -District
Crime No.395 of 2024

....Respondent/Complainant

Prayer:The Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita Act, 2023 to call for the records relating to the remand order passed in Crime No.395 of 2024 dated 10.10.2024 by the Judicial Magistrate Court, Melur, Madurai and to examine the same and to set aside the remand order dated 10.10.2024.

For Petitioner : Mr.S.Kasirajan

For Respondents :Mr.P.Samuel Gunasingh
Government Advocate (Crl.side)



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ORDER

The present petition has been filed by Accused No.3 in Crime No.395 of 2024 on the file of the respondent police seeking to set aside the order of remand of the Judicial Magistrate, Melur dated 10.10.2024.

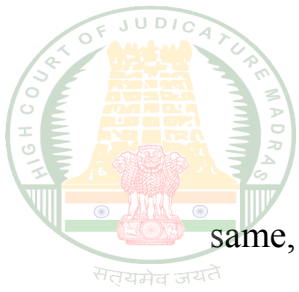
(A).Factual Matrix:

2.The petitioner herein is arrayed as 3rd accused in Crime No.395 of 2024 on the file of the respondent police for the alleged offences under Sections 8(c), 20(b)(ii)(c), 25 and 29(1) of Narcotic Drugs & Psychotropic Substances Act, 1985. The F.I.R has been registered on 09.10.2024.

3.As per arrest memo, the petitioner was arrested at 6.30 p.m on 09.10.2024 and produced before the Judicial Magistrate, Melur at 5.30 p.m on 10.10.2024 and he was remanded to judicial custody. This order of remand is under challenge on the following grounds:

a)Though arrest memo has been issued to the petitioner herein, it does not contain the grounds of arrest and therefore, it is defective.

b)The petitioner was detained at 5.00 p.m on 09.10.2024 even as per the allegation in the F.I.R. However, the arrest memo shows that the petitioner was arrested only at 6.30 p.m on 09.10.2024. Calculating 24 hours from 6.30 p.m on 09.10.2024, the petitioner has been produced before the Jurisdictional Magistrate only at 5.30 p.m on 10.10.2024 and accepting the

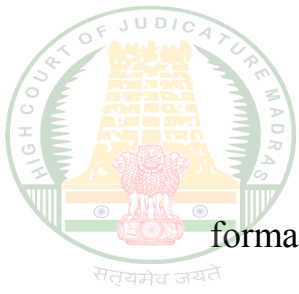


same, an order of remand has been passed. The period of 24 hours has to be calculated from the time of detention and not from the time mentioned in the arrest memo after formal arrest. Therefore, the petitioner, having been produced before the Jurisdictional Magistrate after 24 hours, the order of remand is vitiated and therefore, liable to be set aside.

(B).Submissions of the learned counsel appearing on either side:

4.The learned counsel appearing for the petitioner had relied upon two decisions of Kerala High Court reported in ***2025 SCC Online Ker 6017 (Biswajit Mandal Vs. Inspector, Narcotic Control Bureau)*** and ***2025 SCC Online Ker 6682 (Ganesh Vs. Narcotics Control Bureau, Represented by Special Public Prosecutor)*** and contended that the calculation of 24 hours for production before the Jurisdictional Magistrate has to be calculated only from the time of detention by the police authorities and not from the time of formal arrest mentioned in the arrest memo.

5.The learned counsel for the petitioner had also relied upon a decision of the Hon'ble Supreme Court reported in ***2025 SCC Online SC 240 (Directorate of Enforcement Vs. Subhash Sharma)***, especially paragraph No.6 and contended that in a case arising out of Prevention of Money Laundering Act, 2002, the Hon'ble Supreme Court was pleased to hold that the time at which the physical custody of the accused was taken, has to be reckoned for the purpose of calculating 24 hours and not the time at which



formal arrest was shown. He also relied upon a decision of the High Court of Telangana at Hyderabad reported in **2024 SCC Online TS 4288 (T.Ramadevi Vs.State of Telangana, rep.by its Principal Secretary and others)** especially paragraph Nos.11 and 12 and contended that the arrest of a person commences from the time restraint is placed and not from the time of the arrest officially recorded by the arresting officers.

6.The learned counsel for the petitioner has also relied a decision of the Hon'ble Supreme Court reported in **(2025) 5 SCC 799 (Vihaan Kumar Vs. State of Haryana and another)** especially Paragraph No.21 and contended that once the arrest is unconstitutional due to violation of Article 22(1) of Constitution of India, the arrest itself is vitiated and therefore, continued custody of such a person based on orders of remand is also vitiated. Relying upon the said judgement, the learned counsel for the petitioner had pointed out that filing of a charge sheet and order of cognizance will not validate an arrest which is perse void and unconstitutional.

7.The learned counsel appearing for the petitioner also relied upon the decisions of the Hon'ble Supreme Court reported in **(2024) 8 SCC 254 (Prabir Purkayastha Vs. State (NCT of Delhi); 2025 SCC Online SC 1318 (Ashish Kakkar Vs. UT of Chandigarh)** and **(2024) 7 SCC 576 (Pankaj Bansal Vs. Union of India and others)** and contended that when the arrest memo does not convey the grounds on which the accused was being arrested,



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the arrest and the consequential remand order are liable to be declared
invalidated in the eye of law.

8.The learned counsel for the petitioner has also relied upon the decision of the Hon'ble Supreme Court in the case of ***Dr.Rajinder Rajan Vs. Union of India and another in Criminal Appeal No.3327 of 2026*** dated 01.04.2026 to contend that when the arrest memo is in a template format and it states that the grounds of arrest had been orally explained, but not given in writing, the Hon'ble Supreme Court was pleased to release the accused person from the custody relying upon the decision reported in ***(2026) 1 SCC 500***.

9.The learned counsel for the petitioner had also relied upon a decision of this Court in ***Crl.R.C.Nos.2494 & 2304 of 2025 (Raj Kumar and others Vs.The State Rep.by the Inspector of Police)*** dated 11.12.2025 wherein the orders of remand were put to challenge on the ground that the ground of arrest was not furnished by the petitioner in writing as mandated in the Constitution of India and Section 50 of Cr.P.C. The learned Single Judge of this Court was pleased to accept the contention of the petitioner and held that the arrest become illegal and the remand order was set aside and the petitioners were released on certain conditions.

10.The learned counsel for the petitioner had also relied upon a decision of this Court in ***Crl.R.C.No.2485 of 2025 (Yasar Arafath @ Mannadi Yaser Vs.The State Rep.by the Inspector of Police, Madhavaram***



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Police Station, Chennai) dated 19.12.2025 wherein the order of remand was put to challenge on the ground that the grounds of arrest were not furnished.

The learned Judge of this Court following the decision of the Hon'ble Supreme Court reported in **2025 SCC Online 2356 (Mihir Rajesh Shah Vs.State of Maharashtra and another)** was pleased to allow the same and set aside the order of remand.

11.The learned counsel had also relied upon the decision of this Court in **Crl.OP.No.34406 of 2025 (Vignesh Vs. The Inspector of Police, PEW Ambattur Unit, Chennai)** dated 27.02.2026 wherein this Court had an occasion to consider the bail application. The petitioner had relied upon Paragraph Nos.14, 15 and 16 wherein this Court observed that the grounds of arrest was not sufficiently explained to the petitioner and therefore, he had suffered prejudice by denial of fair opportunity to defend himself and granted bail to the petitioner therein on certain conditions.

12.The learned counsel for the petitioner had also relied upon a decision of this Court in **Crl.OP.No.7908 of 2025 (Abdul Gaffar Vs. Union of India)** dated 12.02.2026 wherein this Court had an occasion to consider the bail application pending trial. After arriving at a finding that the grounds of arrest have not been informed to the accused therein, the Court was pleased to grant the bail with certain conditions.



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13.The learned counsel for the petitioner had also relied upon a decision of this Court in ***Crl.OP.No.8413 of 2026 (Manikandan Vs. The Inspector of Police, Gummudipoondi PS, Tiruvallur)*** dated 07.05.2026 wherein this Court had an occasion to consider the bail application. The learned Single Judge of this Court had enlarged the petitioner therein on bail on the ground that the petitioner therein was not informed the grounds of arrest.

14.The learned counsel for the petitioner had also relied upon a decision of High Court of Orissa at Cuttack in ***Crl.MC.No.3703 of 2022 (Sk.Hussain and others Vs. State of Orissa)*** dated 15.11.2022 wherein it is held that the physical act of apprehension of the petitioners completes the process of arrest and therefore, mere mentioning of a different time in the memo of arrest, cannot have any relevance whatsoever for calculating 24 hours. The learned counsel has also relied upon the order of the Hon'ble Supreme Court in ***Crl.A.No.1518 of 2025 (Ashish Kakkar Vs. UT of Chandigarh)*** dated 25.03.2025 wherein the Hon'ble Supreme Court was pleased to observe that when the grounds of arrest have not been furnished, it would amount to non-compliance of Section 50 of Cr.P.C and it would be in violation of Article 22(1) of Constitution of India and the order of arrest and the consequential remand order was set aside.



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15.Per contra, the learned Government Advocate (Crl.side) appearing for the respondent had relied upon a decision of this Court in ***Crl.A(MD).Nos. 169 of 2023 batch case (Parthipan Vs. The State of Tamil Nadu, Rep.by the Inspector of Police, NIBCID Police Station, Theni District)*** dated 26.08.2025. He also relied upon a decision of this Court in ***Crl.OP.No.4140 of 2026 (Dhanasekaran Vs. The Union of India, Rep.by the Intelligence Officer, T.Nagar, Chennai)*** dated 16.04.2026 especially Paragraph No.11 and contended that when the summons were issued to the accused person and upon interrogation pursuant to the summon and they were arrested, the initial time of detention cannot be taken into consideration for calculation of 24 hours. He further relied upon a decision of this Court in ***Crl.OP.No.5321 of 2025 (E.Kadhar Basha and another Vs. Union represented by the Inspector, NCB, Cheenai Zonal Unit)*** dated 26.02.2025 especially paragraph No.8 and contended that when summons were issued for conducting a search, the said time has to be excluded. He also relied upon paragraph No.12 of the judgment and contended that when the order of remand was challenged after a period of two years, the same is not maintainable.

16.Heard the learned counsel appearing on either side and perused the material records.



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(C).Discussion:

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17.A perusal of the F.I.R reveals that the respondent police had received secret information at 4.10.p.m on 09.10.2024 about the transport of contraband from Trichy to Madurai in a Ford Figo Car. The respondent officials have recorded the same in the register at 4.20 p.m and the Inspector of Police has orally instructed them to proceed in accordance with law. Thereafter, the Special Sub Inspector, Head Constable and a lady Head Constable had given information to the Zonal Deputy Tahsildhar, Othakkadai, Madurai, the Village Administrative Officer, Rajakambeeram Village to come to the spot. The police officials have reached the spot at 4.45 p.m. Thereafter, the Deputy Tahsildhar and the Village Administrative Officer reached the spot. After that, the Car which came on Trichy-Madurai highway was identified by the police informant and the Car was intercepted at 5.00 p.m by the police officials wherein they found that two gents were seated in the front seat and a lady was seated in the back seat. The police have requested them to accompany the officials to the Judicial Magistrate or the Gazetted Officer if they wish to do so as per their rights under NDPS Act.

18.It is further stated in the F.I.R that the persons have stated that we do not like to come to any other place and you can conduct search by themselves. Thereafter, the consent letters were prepared on the spot between 5.10 p.m to 5.40 p.m in which the accused persons and the witnesses have

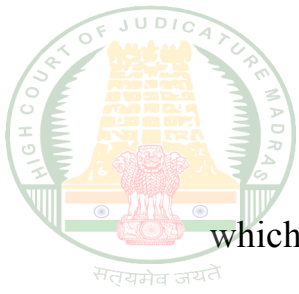


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signed. Thereafter, the police officials have found that two white colour sacks were found in the back seat of the Car which contained ganja. Each bag was weighing 25 kg and totally 50 kg of ganja was seized. Between 5.50 p.m to 6.20 p.m, arrest memo was prepared and signatures were obtained from the accused persons and the witnesses. Later at 6.30 p.m all the accused persons were arrested and their relatives were informed. They have sealed the two white colour sacks and signatures were obtained from the accused and the witnesses. Later between 8.50 p.m to 09.20 p.m, the inspection memo was prepared and they reached the police station at 09.40 p.m and thereafter, the report was prepared under Section 57 of NDPS Act and sent to the higher officials at about 10.30 p.m.

19.A perusal of the impugned remand order dated 10.10.2024 reveals that all the three accused were produced at the Chamber of the Judicial Magistrate, Melur at 5.30 p.m on 10.10.2024 and the grounds of arrest were explained to them. At the time of remand, the legal aid duty Counsel Mr.Saravanakumar was also present to provide legal aid. It is recorded that there was no complaint as against the police and there was no external physical injury and the arrest intimation were given to their relatives. The properties were produced. The Magistrate has found prima facie case and remanded the accused person to the judicial custody till 21.10.2024. This order of remand dated 10.10.2024 is put to challenge in the present petition

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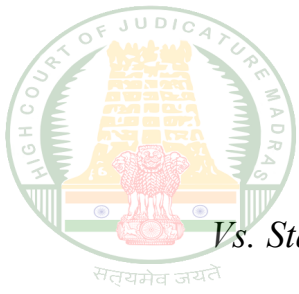


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which is filed on 12.02.2026 after a period of 16 months seeking to set aside the order of remand.

20.Let us consider the first contention of the learned counsel for the petitioner that the arrest memo did not contain full particular and it was defective in nature and therefore, the order of remand is liable to be set aside. A copy of the arrest memo has been produced before this Court in the typed set of papers filed by the petitioner himself. It reveals that all the three accused were found in possession of 50 kg of ganja illegally without any permission. The said arrest memo has been signed by the accused persons as well as by the witnesses Zonal Deputy Tahsildhar and the Village Administrative Officer. It has also been signed by the Sub Inspector of Police, Othakkadai Police Station. It is clear that the contraband has been recovered and it has been pointed out that they are arrested under Section 8(c) read with Section 20(b)(ii)(c), 25 and 29(1) of NDPS Act.

21.It is further mentioned in the arrest memo that the accused persons are entitled to inform their relatives and the arrest memo was read over to the accused persons and they were arrested. The arrest memo clearly mentions the grounds of arrest as well as the provisions under which they are being arrested and it is in writing also. The accused persons have signed the same and they have received a copy. In such circumstances, the decision of the Hon'ble Supreme Court reported in **(2024) 8 SCC 254** (*Prabir Purkayastha*



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Vs. State (NCT of Delhi); 2025 SCC Online SC 1318 (Ashish Kakkar Vs. UT of Chandigarh) and (2024) 7 SCC 576 (Pankaj Bansal Vs. Union of India

and others) are not applicable to the facts of the present case, in view of the fact that the grounds of arrest contained all the particulars which necessitates the arrest of the accused persons and they have been informed in writing also. Therefore, the first contention raised by the learned counsel for the petitioner that the arrest memo was defective in nature cannot be countananced.

22.Let us proceeded to consider the next contention of the learned counsel for the petitioner that the petitioners were detained beyond a period of 24 hours in the police custody and they were produced before the Judicial Magistrate only at 5.30 p.m on 10.10.2024 and therefore, the arrest and the order of remand are vitiated. The primary contention of the learned counsel for the petitioner is that they were physically detained by the police officials at 5.00 p.m on 09.10.2024 and therefore, the constitutionally mandated production before the Jurisdictional Magistrate within 24 hours should be reckoned from the physical detention.

23. In the present case, as per F.I.R the vehicle was intercepted at 5.00 p.m on 09.10.2024. The consent letter was prepared between 5.10 p.m to 5.45 p.m. The arrest memo was prepared between 5.50 p.m to 6.20 p.m and the accused persons were arrested at 6.30 p.m on 09.10.2024.

24. The issue that arises for consideration is whether the time taken by the



police officials to conduct search and prepare the arrest memo could be excluded for calculating 24 hours. The provisions that are relevant for disposal of this case are extracted as follows:

Section 51 of NDPS Act 1985:

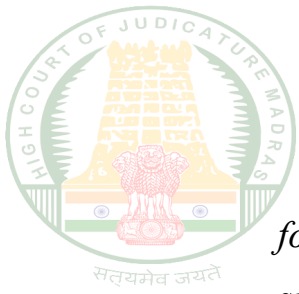
Section 51 of the Narcotic Drugs And Psychotropic Substances Act, 1985- Provisions of the Code of Criminal Procedure, 1973 to apply to warrants, arrests, searches and seizures.—The provisions of the Code of Criminal Procedure, 1973 shall apply, in so far as they are not inconsistent with the provisions of this Act, to all warrants issued and arrests, searches and seizures made under this Act.

Section 58 of Bharatiya Nagarik Suraksha Sanhita 2023:

58. Person arrested not to be detained more than twenty-four hours: -No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 187, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court, whether having jurisdiction or not.

Section 42 of NDPS Act:

42. Power of entry, search, seizure and arrest without warrant or authorisation.—(1) Any such officer (being an officer superior in rank to a peon, sepoy or constable) of the departments of central excise, narcotics, customs, revenue intelligence or any other department of the Central Government including para-military



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forces or armed forces as is empowered in this behalf by general or special order by the Central Government, or any such officer (being an officer superior in rank to a peon, sepoy or constable) of the revenue, drugs control, excise, police or any other department of a State Government as is empowered in this behalf by general or special order of the State Government, if he has reason to believe from personal knowledge or information given by any person and taken down in writing that any narcotic drug, or psychotropic substance, or controlled substance in respect of which an offence punishable under this Act has been committed or any document or other article which may furnish evidence of the commission of such offence or any illegally acquired property or any document or other article which may furnish evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter V-A of this Act is kept or concealed in any building, conveyance or enclosed place, may between sunrise and sunset,—

(a) enter into and search any such building, conveyance or place;

(b) in case of resistance, break open any door and remove any obstacle to such entry;

(c) seize such drug or substance and all materials used in the manufacture thereof and any other article and any animal or conveyance which he has reason to believe to be liable to confiscation under this Act and any document or other article which he has reason to believe may furnish evidence of the commission of any offence punishable under this Act or furnish



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evidence of holding any illegally acquired property which is liable for seizure or freezing or forfeiture under Chapter V-A of this Act;and

(d) detain and search, and, if he thinks proper, arrest any person whom he has reason to believe to have committed any offence punishable under this Act:

[Provided that in respect of holder of a licence for manufacture of manufactured drugs or psychotropic substances or controlled substances granted under this Act or any rule or order made thereunder, such power shall be exercised by an officer not below the rank of sub-inspector:

Provided further that] if such officer has reason to believe that a search warrant or authorisation cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, he may enter and search such building, conveyance or enclosed place at any time between sunset and sunrise after recording the grounds of his belief.

(2) Where an officer takes down any information in writing under sub-section (1) or records grounds for his belief under the proviso thereto, he shall within seventy-two hours send a copy thereof to his immediate official superior.

Section 50 of The Narcotic Drugs And Psychotropic Substances Act, 1985.

50.Conditions under which search of persons shall be conducted.

(1).When any officer duly authorised under section 42 is about to search any person under the provisions of section 41, section 42 or section 43, he shall, if such person so requires, take such person



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without unnecessary delay to the nearest Gazette Officer of any of the departments mentioned in section 42 or to the nearest Magistrate.

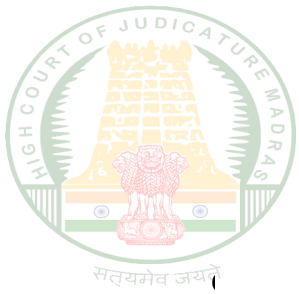
(2).If such requisition is made, the officer may detain the person until he can bring him before the Gazetted Officer or the Magistrate referred to in subsection (1).

(3).The Gazette Officer or the Magistrate before whom any such person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person but otherwise shall direct that search be made.

(4).No female shall be searched by anyone excepting a female.

(5).When an officer duly authorised under section 42 has reason to believe that it is not possible to take the person to be searched to the nearest Gazetted Officer or Magistrate without the possibility of the person to be searched parting with possession of any narcotic drug or psychotropic substance, or controlled substance or article or document, he may, instead of taking such person to the nearest Gazette Officer or Magistrate, proceed to search the person as provided under section 100 of the Code of Criminal Procedure, 1973 (2 of 1974).

(6).After a search is conducted under sub-section (5), the officer shall record the reasons for such belief which necessitated such search and within seventy-two hours send a copy thereof to his immediate official superior.”



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25. In the present case, a perusal of the F.I.R reveals that the Law Enforcing Agency had received secret information and after taking down the same in writing and after informing the Inspector of Police, a team of three officials including a lady constable have left the police station and intercepted a private car on the high way at 5.00 p.m. The Law Enforcing Agency had prepared a report under Section 57 of NDPS at about 10.30 p.m on the said date and informed to the Inspector of Police at 9.40 p.m on the same day as per Section 42(2) and prepared a report as contemplated under Section 57 of NDPS Act at 10.30 p.m on the said date. Therefore, it is clear that the Law Enforcement Agency has invoked Section 42 of NDPS Act.

26. In order to conduct personal search, the consent letters have been prepared between 5.10.p.m to 5.40 p.m on the highway itself and the signatures have been obtained from the accused persons and the witnesses. Thereafter, the recovery has been made from the back seat of the Car wherein the first accused was sitting. The arrest memo has been prepared between 5.50 p.m to 6.20 p.m and the signature of the accused and witnesses has been obtained. The accused persons were arrested at 6.30 p.m as per arrest memo.



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27.The Five Judges Bench of the Hon'ble Supreme Court in Paragraph No.32 of the judgement reported in **(1999) 6 SCC 172 (State of Punjab Vs. Baldev Singh)** has held as follows:

“32..... Therefore, without expressing any opinion as to whether the provisions of Section 50 are mandatory or not, but bearing in mind the purpose for which the safeguard has been made, we hold that the provisions of Section 50 of the Act implicitly make it imperative and obligatory and cast a duty on the Investigating Officer (empowered officer) to ensure that search of the concerned person (suspect) is conducted in the manner prescribed by Section 50, by intimating to the concerned person about the existence of his right, that if he so requires, he shall be searched before a Gazetted Officer or a Magistrate and in case he so opts, failure to conduct his search before a Gazetted Officer or a Magistrate, would cause prejudice to an accused and render the recovery of the illicit article suspect and vitiate the conviction and sentence of an accused, where the conviction has been recorded only on the basis of the possession of the illicit article, recovered during a search conducted in violation of the provisions of Section 50 of the Act. The omission may not vitiate the trial as such, but because of the inherent prejudice which would be caused to an accused by the omission to be informed of the existence of his right, it would render his conviction and sentence unsustainable. The protection provided in the section to an accused to be intimated that he has the right to have his personal search conducted before a Gazetted Officer or a Magistrate, if he so



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requires, is sacrosanct and infeasible it cannot be disregarded by the prosecution except at its own peril.”

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28.The Hon'ble Supreme Court has categorically held that the procedure contemplated under Sections 42 and 50 of NDPS Act are imperative in nature and non-compliance of the same would render the conviction and sentence unsustainable. Section 42(d) of NDPS Act points out that a Law Enforcing Agency is empowered to detain and search and if he thinks proper, arrest any person whom he has reason to believe to have committed any offence punishable under this Act. Section 50 lays down an elaborate procedure for conducting personal search. The accused persons should be given two options that either they may get searched before a Gazetted Officer or before the Magistrate.

29.Section 50(2) points out that if the accused persons request to search themselves through a Gazetted Officer or the Magistrate, the accused persons have to be detained till such officer arrives. Therefore, it is clear that the detention prior to search or at the time of search cannot be considered to be arrest under NDPS Act. Unless search is completed and the officer of the Law Enforcing Agency finds that the accused persons are in possession of contraband, he cannot arrest them.

30.Section 50(3) of NDPS Act points out that in case if the accused persons choose to get themselves searched before the Gazetted Officer or the



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Magistrate, the concerned officer, if they see that there is no reasonable ground for search, the accused persons have to be forthwith discharged. On the other hand, if the concerned officer finds that there are reasonable ground for search, he can direct that search be made.

31.For a search to be conducted as per Section 50, unless a person is detained, personal search cannot be conducted. Only after completion of the personal search, in case, if the contraband is found in possession of any person, the Law Enforcing Officer can proceed to arrest him. In fact, Section 50(2) clearly points out that till the arrival of Gazetted Officer or Magistrate, the person who is believed to be in possession of contraband, has to be detained.

32.Even Section 43(b) (relating to power of search and arrest in the public place) points out that the detention and search have to precede the arrest and the arrest can be made only if any person was found to be in possession of contraband and such possession appears to unlawful. Therefore, it is clear that under Section 42(d) and 43(b), the word detention and search are used in contradistinction with the word arrest.

33.The word arrest has not been defined either in BNSS or in any other statute. Section 43(1) of BNSS only explains how an arrest can be made. Though detention and arrest involve placing restriction on the movement of any person, they are conceptually distinct. While detention is investigatory in



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nature based on reasonable suspicion, arrest is accusatory in nature after confirmation of commission of offence. Since the provisions under NDPS Act are imperative in nature, the officers of Law Enforcing Agency are expected to strictly follow the same before effecting search, seizure or recovery. Otherwise that may result in vitiating the conviction and sentence. Therefore, the said procedure as contemplated under Sections 42, 43 and 50 have to be strictly complied with by the authorities concerned. Without complying the same, any arrest made by them, would not be of any help to the prosecution and the same is likely to result in acquittal.

34. These precautionary procedures have been mandated under the Act only to safeguard the accused persons from any false cases being foisted against them. Therefore, the time taken by the authorities concerned, to fulfil the statutory mandate, prior to arrest, cannot be included for calculation of 24 hours custody as contemplated under Section 58 of BNSS. When the other statutes do not provide for a distinction between the detention and the arrest, the judgement cited by the learned counsel for the petitioner would not be applicable for detention and arrest under NDPS Act cases.

35. In the present case, the Car was intercepted at 5.00 p.m, the consent letter was prepared between 5.10 p.m to 5.40 p.m and the search was conducted between 5.40 p.m to 5.50 p.m and thereafter, arrest memo was prepared between 5.50 p.m to 6.20 p.m. The petitioners were arrested at 6.30



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p.m and there is no unreasonable detention of the accused persons than what is required for conducting search by following the mandate of Section 42 and Section 50 of NDPS Act. When 24 hours is calculated from 6.30 p.m on 09.10.2024, production of accused before Jurisdictional Magistrate at 5.30 p.m on 10.10.2024 is well within 24 hours. Therefore, the impugned remand order of Jurisdictional Magistrate is perfectly in order and does not call for any interference.

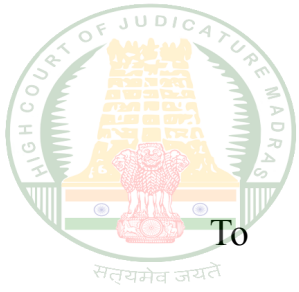
36.The impugned order of remand has been passed on 10.10.2024 and the present petition seeking to set aside the same has been filed only on 12.02.2026 after a delay of 16 months. It is clear that it is only an after thought and an attempt to get the remand order set aside, when the accused persons were not able to get a regular bail after filing of the charge sheet.

(D).Conclusion:

37.In view of the above said deliberations, there are no merits in the petition and this Criminal Original Petition stands dismissed.

01-07-2026

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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To

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1. The Judicial Magistrate, Melur, Madurai

2. The The Inspector of Police
Othakadai Police Station
Madurai City -District
Crime No.395 of 2024

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



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Crl.OP(MD).No.3378 of 2026

R.VIJAYAKUMAR, J.

msa

Crl.OP(MD).No. 3378 of 2026

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