



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26-02-2026

CORAM

THE HONOURABLE MRS JUSTICE S.SRIMATHY

CRL OP(MD) NO. 3890 of 2025

Mariappan

Petitioner(s)

Vs

The State of Tamil Nadu  
Rep by The Inspector of Police  
NIB-CID  
Madurai.  
Cr. No. 11/2024.

Respondent(s)

**For Petitioner(s):** Mr.V.Kasi Raja

**For Respondent(s):** Mr.T.Senthil Kumar, Additional Public Prosecutor

**Prayer:**

C-32B. For Bail in Crime No.11 of 2024 on the file of the respondent police.

### **ORDER**

The petitioner / A7, who was arrested and remanded to judicial custody on 02.08.2024 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(c), 25 and 29(1) of NDPS Act in Cr.No.11 of 2024 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on secret information, the Inspector of Police Q Branch Madurai along with police party mounted surveillance at Meenakshi Bhavan Hotel, Chinna Udaippu, Perungudi, at about 10.15am on 01.08.2024 and



intercepted one lorry bearing TN 52 B 4416. On seeing the police officials, the A1 to A3 present in the lorry attempted to escape, but were caught hold by the police and enquired. The A2 in his statement has stated that he was working as driver to one Ganesan who is the owner of the lorry, A2 was instructed to carry 25 tons of rubber seats from Assam to Nagercoil. Further A2 had confessed that A10 namely Veerabagu along with A1 Periyasamy loaded four gunny bags of Ganja weighing 120 kgs, in lorry at Anakkapalli Andhra Pradesh and instructed to hand it over to A5 Mohamed Yunus. Further A10 informed to A2 that he along with the petitioner already made arrangements to carry the contraband and A6 Jeyaram and A7 Mariappan would be waiting in Maruti Baleno car. Further A2 had confessed that the contraband would be smuggled to Sri Lanka through boat by A8 Raja and A9 Chandru. The accused 11, 12, 13 and 14 are the from Andhra Pradesh who are the sellers of the Ganja. Based on the report, case was registered in Crime No.11 of 2024.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offences as alleged by the prosecution. He would further submit that the petitioner is no way connected with the case, a false case has been lodged as against the petitioner based on the confession of the prime accused. He would further submit that the petitioner is in custody from 02.08.2024. Hence, he seeks bail.



4. The learned Additional Public Prosecutor submitted that the respondent police have seized 120 kgs of Ganja from the accused persons. The present petitioner was arrested based on the confession of co-accused. The specific overt act against the petitioner is that he has shifted the contraband in Bolero Car. Since the contraband involved in this case is commercial quantity and there is a bar for granting bail under section 37 of NDPS Act, he strongly opposed for grant of bail to the petitioner.

5. The primary contention of the prosecution is that there is a bar for granting bail under section 37 of NDPS. Hence, the twin test stated under section 37 of NDPS Act ought to be considered. 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),—*

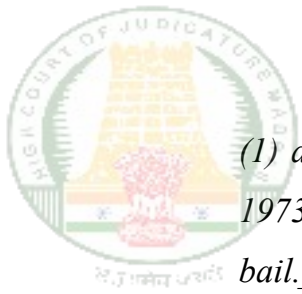
*(a) every offence punishable under this Act shall be cognizable;*

*(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.]”*

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6. The section states to issue notice to the Public Prosecutor. This Court had issued notice to the Public Prosecutor, who in turn had submitted objections and opposed to grant bail. Further the prosecution had filed detailed counter in the earlier bail application and the same was also considered by this Court. 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 contention of the petitioner is that the petitioner was implicated based on the confession of co-accused.

9. It is settled proposition of law that the confession cannot be a sole ground for convicting a person. The Hon'ble Supreme Court in Karan Talwar vs. the State of Tamil Nadu in SLP (Crl.) No.10736 of 2022 has held that mere confession of the co-accused by itself cannot be the reason for his implicating in the crime and discharged



the accused from the NDPS case. The relevant portion is extracted hereunder:

*“10. As is evident from the said Section, the alleged offence is consumption of narcotic drug or psychotropic substance other than those specified in or under clause (a) of [Section 27](#), NDPS Act, and therefore, the question is whether any material is available to charge the appellant thereunder. The contention of the appellant is that he has been arraigned as accused No.13 based on the confession statement of co-accused viz., accused No.1. **Certainly, in the absence of any other material on record to connect the appellant with the crime, the confession statement of the co-accused by itself cannot be the reason for his implication in the crime.** This view has been fortified by the law laid down in *Suresh Budharmal Kalani Vs. State of Maharashtra*, wherein it was stated that a co-accused’s confession containing incriminating matter against a person would not by itself suffice to frame charge against him. The materials on record would reveal that the investigating agency had (1998) 7 SCC 337; 1998 INSC 364 not subjected him to medical examination and instead, going by complaint Witness No.23, he smelt the accused. The less said the better and we do not think it necessary to comment upon adoption of such a course. We need only to say that even if he tendered such evidence, it would not help the prosecution in anyway. There is absolutely no case that any recovery of contraband was recovered from the appellant. As regards the confession statement of the appellant in view of [Section 25](#) of the Indian Evidence Act, 1872 there can be no doubt with respect to the fact that it is inadmissible in evidence. In this context it is worthy to refer to the decision of this Court in [Ram Singh v. Central Bureau of Narcotics](#)<sup>4</sup>. In [the said decision](#), this Court held that [Section 25](#) of the Indian Evidence Act would make confessional statement of accused before police inadmissible in evidence and it could not be brought on record by prosecution to obtain conviction. Shortly stated, except the confessional statement of co-accused No.1 there is*



*absolutely no material available on record against the appellant.”*

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10. In *Surinder Kumar Khanna Vs. Intelligence Officer, the Directorate of Revenue Intelligence* reported in 2018 8 SCC 271 it has been held as under:

*“12. The law [laid down in Kashmira Singh](#) (supra) was approved by a Constitution Bench of this Court in [Hari Charan Kurmi and Jogia Hajam v. State of Bihar](#)<sup>11</sup> wherein it was observed:*

*“As we have already indicated, this question has been considered on several occasions by judicial decisions and it has been consistently held that a confession cannot be treated as evidence which is substantive evidence against a co-accused person. In dealing with a criminal case where the prosecution relies upon the confession of one accused person against another accused person, the proper approach to adopt is to consider the other evidence against such an accused person, and if the said evidence appears to be satisfactory and the court is inclined to hold that the said evidence may sustain the charge framed against the said accused person, the court turns to the confession with a view to assure itself that the conclusion which it is inclined to draw from the other evidence is right. As was observed by Sir Lawrence Jenkins in [Emperor v. Lalit Mohan Chuckerburty](#) a confession can only be used to “lend assurance to other evidence against a co-accused”. In *re Periyaswami Moopan Reilly. J.*, observed that the provision of [Section 30](#) goes not further than this:*

*“where there is evidence against the co-accused sufficient, if believed, to support his conviction, then the kind of confession described in [Section 30](#) may be thrown into the scale as an additional reason for believing that*



evidence”.

*In Bhuboni Sahu v. King the Privy Council has expressed the same view. Sir John Beaumont who spoke for the Board, observed that*

*“a confession of a co-accused is obviously evidence of a very weak type. It does not indeed come within the definition of “evidence” contained in [Section 3](#) of the Evidence Act. It is not required to be given on oath, nor in the presence of the accused, and it cannot be tested by cross-examination. It is a much weaker type of evidence than the evidence of an approver, which is not subject to any of those infirmities. [Section 30](#), however, provides that the court may take the confession into consideration and thereby, no doubt, makes it evidence on which the court may act; but the section does not say that the confession is to amount to proof. Clearly there must be other evidence. The confession is only one element in the consideration of all the facts proved the case; it can be put into the scale and weighed with the other evidence”.*

*It would be noticed that as a result of the provisions contained in [Section 30](#), the confession has no doubt to be regarded as amounting to evidence in a general way, because whatever is considered by the court is evidence; circumstances which are considered by the court as well as probabilities do amount to evidence in that generic sense. Thus, though confession may be regarded as evidence in that generic sense because of the provisions of [Section 30](#), the fact remains that it is not evidence as defined by [Section 3](#) of the Act. The result, therefore, is that in dealing with a case against an accused person, the court cannot start with the confession of a co-accused person; it must begin with other evidence adduced by the prosecution and after it has formed its opinion with regard to the quality and effect of the said evidence, then it is permissible to turn to the confession in order to receive assurance to the conclusion of guilt which the judicial mind is about to reach on the said*



other evidence. That, briefly stated, is the effect of the provisions contained in [Section 30](#). The same view has been expressed by this Court in [Kashmira Singh v. State of Madhya Pradesh](#) where the decision of the Privy Council in [Bhuboni Sahu](#) case has been cited with approval.”

13. The law so laid down has always been followed by this Court except in cases where there is a specific provision in law making such confession of a co-accused admissible against another accused.”

In the present case as stated supra the petitioner was not in possession of the contraband and it is based on the confession the petitioner was implicated. Hence, the first test of ‘chance of conviction’ is favouring the petitioner. Therefore, this Court is of the considered opinion that the petitioner deserves to be considered for bail.

11. As far as the 2<sup>nd</sup> sub clause is concerned it is seen that the petitioner is not having any previous case. Hence the second test of “likely to commit the same offence” may not support the case of the prosecution. Therefore, petitioner is entitled to be considered for the bail.

12. Further, it is seen one of the co-accused A6 was granted bail by the Hon’ble Supreme Court vide order dated 08.12.2025, wherein it is held as under:

“7. It is an undisputed fact that based on the statement of the co-accused, the petitioner herein who is the owner of the vehicle from which the contraband was seized have been arrested. No recovery has been made from the petitioner. The CDR by itself would not be a



*ground on which the continued detention of the accused would be warranted, particularly in the backdrop of the investigation having been concluded and that apart medical condition of the petitioner also warranting further treatment which can be effectively obtained outside the prison.”*

It is also seen that the Hon'ble Supreme Court had granted bail to A8/Raja. It is pertinent to mention here that the said A6, A8 and A4 had filed bail applications and all the three were considered and a common order dated 12.09.2025 was passed by this Court whereby all the bail applications were dismissed. After dismissal of bail, the A6 and A8 had approached the Hon'ble Supreme Court and obtained bail. Thereafter, this Court had granted bail to A4, vide order, dated 20.01.2026, in CRL OP(MD)No.19572 of 2025.

13. In the present case, the petitioner is also implicated based on confession of co-accused and there is no enough material in CDR details as held supra, hence the petitioner being similarly placed is also entitled to be considered for bail. The petitioner is languishing in jail for a long time, hence the petitioner is entitled to bail based on long incarceration.

14. Taking into consideration of the facts and circumstances of the case, and



considering the period of incarceration and for the reasons stated supra, this Court is inclined to grant bail to the petitioner, subject to the following conditions:-

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15. 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 Principal Special Court for Trial of NDPS Act Cases, Madurai, and on further conditions that:-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] The petitioner shall furnish his residential address and mobile number to the Principal Special Court for Trial of NDPS Act Cases, Madurai.

[c] If the petitioner changes his residential address, he shall report the same to the Principal Special Court for Trial of NDPS Act Cases, Madurai.

**[d] the petitioner shall report before the Trial Court daily at 10.30 a.m. until further orders.**

[e] the petitioner shall not abscond either during investigation or trial.

[f] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[g] 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].

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[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 BNS.

**26-02-2026**

Tmg

To

1.Principal Special Court for Trial of NDPS Act Cases,  
Madurai.

2. The Inspector of Police,  
Intelligence Bureau – CID,  
Madurai District

Narcotic

3.The District Jail,  
Dindigul.

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