



Crl.O.P.(MD)Nos.4947 and 4904 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 12-11-2025

PRONOUNCED ON : 11-03-2026

**CORAM
THE HONOURABLE MRS JUSTICE S.SRIMATHY**

CRL OP(MD) NOS. 4947 and 4904 of 2025

Balamurugan

Petitioner(s) in CRL OP(MD)
No.4947 of 2025

Satheeskumar

Petitioner(s) in CRL OP(MD)
No.4904 of 2025

Vs

The State of Tamilnadu
Rep by The Inspector of Police
Pattiveeranpatti Police Station
Dindigul District.
Crime No.245/2024.

Respondent(s) in both cases

In both cases:

For Petitioner(s): Mr.J.Selvam

For Respondent(s): Mr.E.Antony Sahaya Prabahar, Additional Public Prosecutor

Prayer in CRL OP(MD) No.4947 of 2025:

To release the Petitioner on bail in CC No.455/2024 on the file of the Learned II Additional Special Judge for EC and NDPS Act Cases, Madurai in Cr No.245/2024 on the file of the respondent police.

Prayer in CRL OP(MD) No.4904 of 2025:

To release the Petitioner on bail in CC No.455/2024 on the file of the Learned II Additional Special Judge for EC and NDPS Act Cases, Madurai in Cr No.245/2024



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on the file of the respondent police.

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COMMON ORDER

The petitioners, who were arrested and remanded to judicial custody on 28.06.2024 for the offences punishable under Sections 8(c) read with 20(b)(ii)(C), 29(1) and 25 of NDPS Act, in Crime No.245 of 2024, on the file of the respondent police, seek bail.

2. The case of the prosecution is that Mr.K.Rajasekaran, the Inspector of Police attached to the respondent police station was on duty at the station on 28.06.2024 and at about 14:00 hours. had received information that three persons are about to smuggle ganja in two motor cycles at Nellur. The said information was reduced in writing on the General Diary at 14:15 hours and for obtaining permission from the Deputy Superintendent of Police, Nilakottai, he had sent Grade I Police Constable 1896 Muthukumar with a letter. Thereafter, the said Inspector of Police accompanied by Mr.Jeyabalan, Sub-Inspector of police, Head Constable 1734 Murthy, Head Constable 1921 Muneeshwaran proceeded from the station at 14:20 hours and reached the back side of Chinnamman Temple on Chithur - Nellur Road at 14:40



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hours using the Government vehicle bearing Reg.No.TN-57-G-0688. At about 14:50 hours, the informant identified two persons found in possession of a white gunny bag in a two-wheeler bearing Reg.No.TN48-AE-0879 and another person on another motor-cycle bearing Reg.No.TN-60-AA-6970. They were intercepted and on enquiry, they revealed their identities and also informed about ganja. The three accused were apprised of their rights to be searched either before the nearest Judicial Magistrate or before a Gazette Officer. But they declined the offer and opted in writing at 15:45 hours to be searched by the raiding party. A mixture of brown colored ganja consisting of leaves, flowers and seeds concealed in the said white gunny bag was found and weighed as 20.700 kg. The confession statement given by A1 was recorded at 16:00 hours. The said contraband, the two-wheeler bearing Reg.No.TN-48-AE-0879 and an OPPO Cellphone were recovered from A1 under the cover of mahazar at 17:00 hours. Likewise, a VIVO Cellphone was recovered from the petitioner/A2 under the cover of mahazar at 17:30 hours and a motor-cycle bearing Reg.No.TN-60-AA-6970 and a Redmi Cellphone were recovered from A3 under the cover of mahazar at 18:00 hours. They were arrested at 18:45 hours and the above said case was registered at 21:00 hours.

3. The learned counsel for the petitioners submits that the petitioners are innocent persons and they have not committed any offence as alleged by the



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prosecution. However, they have been arrested and he is languishing in jail from 28.06.2024. Therefore, he prays for grant of bail.

4. The learned Additional Public Prosecutor appearing for the respondent police opposed for granting bail on the ground that the quantity of ganja is commercial quantity and there is a bar under section 37 of NDPS Act. Further submitted that the petitioners are having three previous cases pending against them and their antecedents are bad.

5. On the other hand, the learned Counsel appearing for the petitioner submitted that the quantity is not commercial since the respondent prosecution had weighted along with the bag, hence the petitioner had filed a petition in Crl.M.P.No. 310 of 2025 for reweighting the contraband excluding the bag and the said same was allowed vide order dated 21.04.2025. If the bag is weighed then the contraband would not be commercial quantity. Further submitted that the stems, leaves without flowering tops cannot be considered as ganja as per the definition of “ganja” under the NDPS Act.

6. After hearing the rival submissions this Court has given its anxious



consideration. The definition of ganja is extracted hereunder:

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“2 (b) ganja, that is, the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they may be known or designated; and”

The Act has not excluded seeds and leaves totally. But has excluded the seeds and leaves “when not accompanied by the tops”, which means the Act has included seeds and leaves “when accompanied by the tops”.

7. The said issue was considered elaborately by Learned Single Judge in CRL.A(MD)Nos.212 of 2020 and batch, vide judgment, dated 15.10.2025, has held that as per the definition seeds, leaves and stems cannot be included when it is not accompanied by the tops. Admittedly in the present case the FIR and the Final Report have not clearly stated whether the ganja was with seeds, leaves and stems accompanied with flowering tops or not accompanied with flowering tops, it only states that “20.700 kgs ganja”. As per the judgment, if the ganja along with seeds and stems but not accompanied with flowering tops, then the quantity would not be commercial and it would be below 20 kg which is intermediate quantity. Considering the same a benefit of doubt ought to be granted to the petitioners.

8. Considering the facts and circumstances and considering the duration of the



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custody, this Court is inclined to grant bail to the petitioners on certain conditions.

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9. Accordingly, the petitioners are ordered to be released on bail, on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned II Additional Special Judge for EC and 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 Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

b)the petitioners shall report before the respondent police daily at 10.30 a.m., for two weeks and thereafter, as and when required for interrogation, until further orders;

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

d)the petitioners shall not abscond during trial;

e)On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court



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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.

11-03-2026

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To

1. The Inspector of Police,
Pattiveeranpatti Police Station,
Dindigul District.

2.The II Additional Special Judge for EC and NDPS Act Cases,
Madurai.

3.The Central Prison, Madurai.

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