



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20-02-2026

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THE HONOURABLE MRS JUSTICE S.SRIMATHY

CRL OP(MD) NO. 10537 of 2025

Saravanan

Petitioner(s)

Vs

State Rep By Inspector Of Police,
Usilampatti Town Police Station
Madurai District.
(Cr. No. 455 of 2023)

Respondent(s)

For Petitioner(s): Mr.J. Vijayaraja

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

Prayer:

C-32B. For Bail in Crime No. 455 of 2023 on the file of the respondent Police.

ORDER

The Criminal Original Petition has been filed to enlarge the petitioner / Accused No.2 on Bail in connection with C.C.No.98 of 2024, on the file of the 1st Additional District Judge, Special Court for NDPS cases, Madurai, Crime No.455 of 2023 for the offences under Sections 8(c), 20(b)(ii)(c) of NDPS Act.

2. The case of the prosecution is that on 06.09.2023 at about 16.30 hours one Sub Inspector of Police namely Ponnuchamy while in-duty had received the secret information based on which after compliance of due procedure with the police parties



went to the spot along with informant at about 16:45 hrs. While reaching the said spot 2 persons were standing in a suspicious manner and on seeing the respondent police, they tried to escape from the scene of occurrence, but the respondent police surrounded and caught the accused. Upon searching the accused bag, the respondent police seized 12kgs of ganja from 1st accused/Eswaran and 10 kgs of ganja from the 2nd accused. Hence, this case.

3. The learned counsel for the petitioner submitted 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 06.09.2023. Therefore, he prays for grant of bail.

4. As per the prosecution the petitioner along with the co-accused was having 22 Kgs of ganja, which is commercial quantity. The petitioner has 3 previous cases among which one case is under NDPS with intermediate quantity of ganja.

5. While considering the bail application under NDPS, the Court ought to consider whether the accused is satisfying the twin conditions 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 Additional 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,

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- 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 learned Counsel appearing petitioner had relied on the FIR and submitted that along with flower, seed, leaf and stem, the contraband was recovered. As per the NDPS act, the definition under section 2 of contraband includes only the flowering tops. The definition further states seed and leaf cannot be taken into account. The said section is extracted hereunder:

“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”

9. The said issue of including the seed, leaf etc. was considered by a 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, seed leaf and stem cannot be included. Admittedly in the present case the FIR clearly states that the accused was in possession of flower along with seeds, leaves and stems.



10. Relying on the above said judgment, this Court is of the considered opinion that if the same is applied in the present case, it would come to intermediate quantity.

It is made clear that the above observation is only for the consideration of bail application and this observation shall not influence the trial.

11. For the reasons stated supra, this Court is of the considered opinion that the petitioner is entitled to bail and accordingly the same is granted with certain 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 1st Additional District Judge, Special Court for NDPS Cases, Madurai, and on further conditions that,

1. 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;
2. the petitioner shall report before the Trial Court daily at 10.30 a.m., for two weeks and thereafter, at 10.30 a.m., once in a week and on all date of hearing until further orders;
3. the petitioner shall not tamper with evidence or witness;
4. the petitioner shall not abscond during trial;



5. 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].

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

13. Accordingly, this Criminal Original Petition for bail is allowed.

20-02-2026

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To

1.1st Additional District Judge,
Special Court for NDPS Cases, Madurai.

2. Inspector Of Police,
Usilampatti Town Police Station
Madurai District.

3. Central Prison,
Madurai.

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