



CRL OP(MD). No.11773 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/07/2026

PRESENT

The HONOURABLE **MR. JUSTICE K. RAJASEKAR**

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Sahayaraj,
S/o.Michealraj,
Soosaiyapparpattinam,
Thangachimadam,
Rameshwaram..

... Petitioner/Accused No.1

Vs

State of Tamilnadu Rep by,
The Inspector of Police,
Jetty Police Station,
Ramanathapuram.
Crime No. 52 of 2025..

... Respondent/Complainant

For Petitioner : Mr.Subburaj.K,
Advocate.

For Respondent : Mr.N.Balasubramanian,
Counsel for State of TN (Crl.Side)

PETITION FOR BAIL Under Sec.483 of BNSS

1/12



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PRAYER :- C-32B. To enlarge him on bail in CC.No. 315 of 2025 on the file of the Additional District Judge Special Court Under EC and NDPS court at Pudukkottai in connection with Crime No. 52 of 2025 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested and remanded to judicial custody on 07.06.2025 for the alleged offence under Sections **8(c) r/w 20(b)(ii)(C), 25 and 29(1) of NDPS Act, 1985**, in C.C.No.315 of 2025 on the file of the Additional District Judge Special Court Under EC and NDPS court at Pudukkottai, in connection with the Crime No.52 of 2025 on the file of the respondent police, seeks bail.

2. The allegation in the complaint is that on prior information, on 07.06.2026, at about 04.45 hours, the Police party intercepted A1 to A6 near MTR fish company at Rameshwaram Ford. After intercepting A1 to A6, who were gathered along with a car and vehicle. After compliance of mandatory provisions, 50 kgs of Ganja were recovered from them and hence, the case was registered and the petitioner was arrested on 07.06.2025.



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3.The learned counsel appearing for the petitioner submitted that already this Court in CrI.O.P.(MD).No.10715 of 2026, while considering the bail application of A5, held that the seizure of the contraband has not been properly recorded and it has been recorded in omnibus manner and there is no specific averments against the role of each accused and granted bail. He further submit that there is non compliance of the Article 22(1) and 22(5) of the constitution of India and no communication of grounds of arrest and arrest memo was not served on them. Hence, the petitioner is entitled to bail.

4. The learned Counsel for State of TN (Criminal Side) appearing for the respondent police reiterated the prosecution case and reported that Section 37 of NDPS Act, is applicable in the present case. He further submitted that they have also complied with the mandatory provision of intimation of the grounds of arrest and arrest intimation etc., He further submit that there is no violation of mandatory provisions. He further submitted the investigation has been completed and final report has also been filed. Hence, he opposed to grant bail to the petitioner.



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5. I have considered the submissions made on either side and perused the materials available on record.

6. In Crl.O.P.(MD).No.10715 of 2026, vide order dated 22.06.2026, this Court granted bail to A5 and the same has been observed as follows:

6. Considering the rival submissions made by the learned counsel on either side, nature of offence, and considering the facts that though prosecution stated that quantity involved in this case is commercial quantity, as per FIR, A4 to A6 were standing outside the car with one bag which containing 5 packs of ganja each 2 kgs and the same has been recovered from them and in the car, from A1 to A3, 20 packs each containing 2 kgs of ganja have been recovered and both the contraband were recovered from different persons from different places; however, they have been clubbed together and as far as this petitioner is concerned, he is standing outside the car and there is no specific allegation about this petitioner and there is an omnibus allegation as against the three persons and there is no specific mention about a particular person from whom the contraband was recovered and the petitioner has no previous case and also investigation is completed and the case is pending for trial, considering the period of incarceration undergone by the petitioner, this Court is



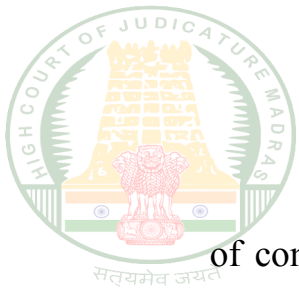
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inclined to grant bail to the petitioner subject to the
following conditions:

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7.In this petition, the specific grounds were pleaded by the petitioner herein regarding the non-compliance with the furnishing and communication of the grounds of arrest, arrest intimation, and arrest memo. The respondent has also filed a counter but has not specifically denied the same. Per contra, the respondent has relied upon Section 37 of the NDPS Act to contend that the petitioner must satisfy the twin conditions mandated therein and, since the same has not been satisfied, he is not entitled to bail. This Court is unable to accept the said contention.

8.The Apex Court in ***Vihaan Kumar vs. State of Haryana and another [2025 INSC 162]*** has held that, the Article 22(1) of the Constitution of India mandates that the information about the grounds of arrest to be provided to the arrested person in such a manner, that sufficient context of the basic facts constituting the grounds is important and communicated to the arrested person. It further reads that the burden



of compliance of Article 22(1) is on the persons, who is exercising the power of arrest. Further elaborating the scope of Article 21, Article 22 and other connected provisions, the Apex Court had concluded as follows:

21. Therefore, we conclude:

a) The requirement of informing a person arrested of grounds of arrest is a mandatory requirement of Article 22(1);

b) The information of the grounds of arrest must be provided to the arrested person in such a manner that sufficient knowledge of the basic facts constituting the grounds is imparted and communicated to the arrested person effectively in the language which he understands. The mode and method of communication must be such that the object of the constitutional safeguard is achieved;

c) When arrested accused alleges non-compliance with the requirements of Article 22(1), the burden will always be on the Investigating Officer/ Agency to prove compliance with the requirements of Article 22(1);

d) Non-compliance with Article 22(1) will be a violation of the fundamental rights of the accused guaranteed by the said Article. Moreover, it will amount to a violation of the right to personal liberty guaranteed by Article 21 of the Constitution. Therefore, non-compliance



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with the requirements of Article 22(1) vitiates the arrest of the accused. Hence, further orders passed by a criminal court of remand are also vitiated. Needless to add that it will not vitiate the investigation, charge sheet and trial. But, at the same time, filing of charge sheet will not validate a breach of constitutional mandate under Article 22(1);

e) When an arrested person is produced before a Judicial Magistrate for remand, it is the duty of the Magistrate to ascertain whether compliance with Article 22(1) and other mandatory safeguards has been made; and

f) When a violation of Article 22(1) is established, it is the duty of the court to forthwith order the release of the accused. That will be a ground to grant bail even if statutory restrictions on the grant of bail exist. The statutory restrictions do not affect the power of the court to grant bail when the violation of Articles 21 and 22 of the Constitution is established.

9.Subsequently, the Apex Court in ***Mihir Rajesh Shah Vs. State of Maharashtra @ Another*** reported in (2026) 1 SCC 500 reiterated the said position that non compliance of the above provision is entitled the detainees or arrestee for seeking bail.



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10.I have also dealt with similar situation in Crl.O.P.(MD).No. 2660 of 2026, vide order dated 27.02.2026 after considering the above judgment of the Apex Court and observed as follows:

“14.Admittedly, the investigation of this case is pending and it is alleged by the petitioner that he has been prevented from approaching the Court seeking bail and to effectively argue the cases on merits, since grounds of arrest has not been properly served on him. I am of the view that the petitioner herein demonstrated that, he suffered prejudice by denial of fair opportunity to defend himself. Since, there was no proper compliance of informing the grounds of arrest to the petitioner herein and it resulted in causing prejudice to his interest in defending the case and prevented him from filing the bail petition and effectively submit his side case on merits, it is clear violation of Article 22(1) and which resulted in custody of the petitioner rendered illegal, hence this Court is inclined to grant bail to the petitioner with certain conditions.”

11.In this case, there is no compliance with the mandatory provision of Article 22(1) of Constitution of India. It has been further substantiated by the learned counsel for the petitioner by producing the



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various documents. In view of the such factual position, this Court is of the view that the petitioner is entitled to bail subject to certain conditions.

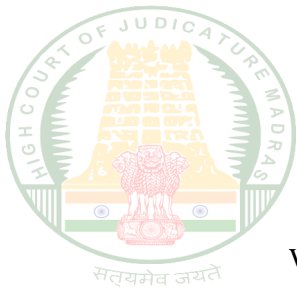
[a] Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, for a like sum to the satisfaction of the learned Additional District Judge Special Court under EC and NDPS Court, Pudukottai, and on further conditions that:-

[b] the petitioner shall report before the trial Court on all working days daily at 10.30 a.m., for a period of four weeks:

[c] the petitioner shall not commit any offence similar to the offence of which he/she is accused, or suspected, or of the commission of which he/she is suspected;

[d] the petitioner shall not abscond either during investigation or trial;

[e] the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted



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with the facts of the case so as to dissuade her from disclosing such facts to the Court or to any police officer or tamper with the evidence;

[f] On breach of any of the aforesaid conditions, the learned Judicial 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].

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

(K R S J)
01.07.2026

vsg



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TO

- 1.The earned Additional District Judge Special Court under EC and NDPS Court, Pudukottai.
2. The Superintendent, Central Prison, Pudukkottai.
- 3.The Inspector of Police,
Jetty Police Station,
Ramanathapuram.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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K. RAJASEKAR,J.,

vsg

ORDER
IN
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