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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 16-10-2026

PRONOUNCED ON: 29.10.2026

CORAM

THE HON'BLE MR. JUSTICE K.MURALI SHANKAR

CRL OP(MD) No. 21496 of 2026

CNR:{HCMD011360872026}

Ravichandran
S/o.Mokkasamy,
West Street,
Azhagureddipatti,
Peraiyur Taluk,
Madurai District.

..Petitioner/Accused No.1

Vs

State Of Tamilnadu
represented by
The Inspector Of Police,
Sedapatti,
Madurai District.
Crime No.49/2022.

..Respondent/Complainant

PRAYER: This Petition filed under section NDPS Act (Bail) C-32B To enlarge the petitioner on bail in Crime No.49/2022 in CC No.817/2022 on the file of the Special Judge for Communal Clash Cases, Madurai and pass further or other orders as this Honble Court.

For Petitioner(s) :Mr. Thanga Prithvi Rajan P

For Respondent(s) :Mr.T.Lenin Kumar
Additionla Public Prosecutor

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ORDER

The petitioner/Accused No.1, who was arrested and remanded to judicial custody on 04.08.2023 for the offences punishable under Sections 8(c) r/w 20(b)(iii)(C), 25, 29(1) of NDPS Act, in Cr.No.49 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that 02.04.2022 at about 06.00hours, upon receipt of the secret information, the respondent police team went near the west side of the Alagureddipatti bridge, that the police party found that a man and a woman sitting in a Maruti Suzuki Eeco red car bearing Registration No.TN-64-U-2963, that on seeing the police party, the man escaped, that when the woman was also attempting to escape, she was apprehended, that they have found 25kg of ganja in the car, that the said contraband was seized and the first accused came to be arrested and on that basis, the present case came to be registered.

3. It is the further case of the prosecution that the first accused gave a voluntary confession statement stating that the person who was sitting with her in the car is her husband – the petitioner herein, that her husband went to Andhra Pradesh and purchased ganja for a lower price and

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brought it for selling the same in retail for high profit and that the petitioner was subsequently arrested on 04.08.2023**.**

4. The case of the petitioner is that the petitioner is innocent, that he has not committed any offence as alleged by the prosecution, that no contraband was recovered from the petitioner and he was implicated only on the basis of the confession alleged to have taken from the co-accused and that he has been falsely implicated in the above case.

5. The learned Counsel for the petitioner would submit that there existed enmity between the petitioner and the Sub-Inspector of Police, who registered the present case, that no contraband was recovered from the petitioner, that a perusal of the F.I.R., would reveal that a false case has been foisted against the petitioner and his wife by the said Sub-Inspector of Police, that the petitioner was not at all present at the place of occurrence, that the prosecution has not offered any reason or explanation for the delay of 11 days in sending the samples, that the petitioner has been in judicial custody for more than 3 years and that therefore, he may be released on bail.

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6. The learned Counsel for the petitioner placed reliance on the decision of the Hon'ble Supreme Court in ***Satendra Kumar Antil Vs. CBI*** reported in ***(2022)10 SCC 51***, where the Hon'ble Apex Court has held that the prolonged incarceration without trial progression violates Article 21 and bail should be granted when no delay is attributable to the accused.

7. The learned Additional Public Prosecutor would submit that the petitioner and his wife were found in the car bearing Registration No. TN-64-U-2963 from where the contraband was recovered, that the petitioner on seeing the police party, had escaped from that place, but his wife was apprehended by the police party, that the respondent police seized the contraband and the car used for transportation, that the trial has already been commenced in the case in C.C.No.817 of 2022 and the examination of P.W.2 is in progress, that the petitioner was having 8 previous cases, out of which, 5 cases are for similar offences and as of now, 3 NDPS cases are pending in C.C.No.123 of 2016, C.C.No.1167 of 2022 and C.C.No.1239 of 2022 and that therefore, the petitioner is not entitled to be enlarged on bail.

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8. At the outset, it is pertinent to note that the petitioner is none other than the husband of the first accused and that the car bearing Registration No. TN-64-U-2963 stands in the name of one Vallarasu, who is none other than the son of the accused herein. The learned Additional Public Prosecutor would further submit that the samples were drawn and sealed at the spot, that the contraband was produced before the jurisdictional Court and the said property came to be received and remanded in R.P.R.No.256 of 2022, that FSL report was obtained on 22.04.2022, that the chain of custody has been fully documented, that the petitioner has not alleged any tampering with the seals and that the contention of the petitioner with regard to the delay in sending samples is liable to rejected.

9. No doubt, proper handling, sealing, custody and preservation of seized contraband are matters of importance, but at the same time, mere delay in producing the seized contraband does not by itself show that the seized contraband were tampered with or substituted. The effect of such delay if any and the alleged lapses in maintaining the chain of custody would have to be considered on the basis of the seizure records, property registers and the other materials collected during investigation and are to be tested at the trial. Moreover, as rightly pointed out by the learned

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Additional Public Prosecutor, the question whether the delay or lapses have actually affected the identity of the seized contraband and whether the same would prejudice the case of the prosecution cannot be considered and decided in the present bail proceedings and such matters required consideration of the records and evidence at the trial.

10. No doubt, the petitioner has been in judicial custody from 04.08.2023. The learned Additional Public Prosecutor placed reliance upon the judgment of the Hon'ble Apex Court in ***NCB Vs. Mohit Aggarwal***, reported in ***2022 SCC Online SC 891***, wherein the Hon'ble Apex Court has specifically held that the length of the period of his custody or the fact that the charge sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the respondent under Section 37 of the NDPS Act.

11. It is also necessary to refer the judgment of the Hon'ble Supreme Court in State of Punjab in ***State of Punjab Vs. Balraj Singh alias Billa*** reported in ***2026 SCC Online Sc 1058***, wherein the Hon'ble Apex Court has observed as follows:

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"17. Keeping in view the above expositions of law, we now proceed to examine the impugned order. The above mentioned decisions of this Court display the consistent view that when it comes to cases involving commercial quantity of narcotics, the mandatory requirements of Section 37 ought to be considered. It is not in dispute that the case at hand, involves commercial quantity. In such a scenario, consideration and reference to the twin conditions enumerated under Section 37 of the NDPS Act was mandatory. Upon a bare perusal of the impugned order, it is evident that there has been no consideration at all by the High Court on the twin conditions. In such a scenario, the impugned order cannot be sustained in the eyes of law.

18. Upon consideration of the case of the respondent against the twin conditions laid down in Section 37, we are of the view that no case for bail is made out. There are antecedents involving commission of offences of the very same nature under the NDPS Act, therefore it cannot be said that he is not likely to commit such an offence while on bail.

19. Moreover, the respondent has only undergone 1 year 7 months, and if found guilty a maximum sentence of twenty years may be imposed upon him. Therefore, it cannot be said that he has suffered incarceration for a long period, warranting interference in view of Article 21 of the Constitution.

20. While this Court has recognized on several occasions that prolonged incarceration warrants the grant of bail in view of Article 21 of the Constitution, we have noticed that

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the application thereof is not uniform. Moreover, there is no doubt that what constitutes "prolonged incarceration" for the purposes of bail, has not been expounded by this Court or the law of the land.

...

22. However, we note that recently this Court in Tasleem Ahmed v. State Govt. of NCT of Delhi has referred the question concerning the approach of constitutional Courts in bail matters under special statutes, where "Article 21, prolonged incarceration and statutory restrictions intersect". In view of the said reference, we do not wish to deliberate on this issue further, save and except that in our view paramount consideration is nothing but interest of justice for all. Should there be any conflict between the sovereignty of country and personal liberty, undoubtedly, the former shall prevail, particularly, when a war is waged against the nation, be it in the form of supply of drugs, which vitally affects the national economy and health of the people."

12. At this juncture, it is necessary to refer the decision of this Court in batch of cases in ***Crl.O.P.(MD)No.5093 of 2021 etc., in Muruganandham and another Vs. the State represented by the Inspector of Police, Authoor Police Station, Thoothukudi District and Others, dated 23.12.2021***, has held as follows:

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"18.*Section 37 of the NDPS Act creates bar for grant of bail whenever the recovery is of commercial in nature and also when the offence is under Section 27-A of the NDPS Act.*

Perusal of the provisions of Section 37 of NDPS Act would show that although there is a bar created for grant of bail but a departure can be made in case where the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such an offence and that he is not likely to commit any offence while on bail, then the Court can always consider the grant of bail in that regard. The Hon'ble Supreme Court in the case of State of ***Kerala and another vs. Rajesh and another,*** *reported in* ***2020 SCC Online SC 81,*** *has observed;*

"20. The scheme of Section 37 reveals that the exercise of power to grant bail is not only subject to the limitations contained under Section 439 of the CrPC, but is also subject to the limitation placed by Section 37 which commences with nonobstante clause. The operative part of the said section is in the negative form prescribing the enlargement of bail to any person accused of commission of an offence under the Act, unless twin conditions are satisfied. The first condition is that the prosecution must be given an opportunity to oppose the application; and the second, is that the Court must be satisfied that there are reasonable grounds for believing that he is not guilty of such offence. If either of these two conditions is not satisfied, the ban for granting bail operates."

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13. It is settled law that the twin conditions contemplated in Section 37 of the NDPS Act are not to be taken as alternative, but conjunctive.. In the present case, according to the prosecution, the petitioner was having 8 previous cases, out of which, 5 cases are for similar offences and more importantly, 3 cases are pending for trail.

14. Considering the above facts and circumstances, the nature and gravity of the accusation and taking note of the statutory embargo under Section 37 of the NDPS Act and that the trial is in part heard stage, this Court is not inclined to enlarge the petitioner on bail.

15. In the result, the Criminal Original Petition is dismissed.

29 -10-2026

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To

1. The District and Sessions Court, Communal Clash Cases Court, Madurai.

2.The Superintendent, Central Prison, Madurai.

3. The Inspector Of Police, Sedapatti
   Madurai District

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

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K.MURALI SHANKAR, J.

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Pre-Delivery Order made in
CRL OP(MD) No. 21496 of 2026

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