



Crl.RC.(MD) No.464 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL.RC.(MD) No.464 of 2026

1. Arun

2. Vivid

.... Petitioners

Vs.

The State of Tamilnadu,
Rep. by the Inspector of Police,
Devakottai Town Police Station,
Sivagangai District.
Crime No.123 of 2025

....Respondent

Prayer: Criminal Revision Petition, filed under section 438 r/w 442 of BNSS, to call for the records and set aside the order dated 24.09.2025 passed in Crl.M.P.No.2826 of 2025 by the Additional District and Sessions Judge (Special Court for EC and NDPS Act Cases), Pudukottai and enlarge the petitioners on bail in Crime No. 123 of 2025 on the file of the respondent.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.D.Raja Boopathy,
Government Advocate



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ORDER

This Criminal Revision Case raises a narrow, yet constitutionally significant, question touching the liberty of two accused persons who stand implicated in a case under the Narcotic Drugs and Psychotropic Substances Act, 1985. The allegation is grave; the quantity alleged is commercial; the rigour of the NDPS Act is undoubtedly stern. Yet, even in prosecutions under special penal statutes, the command of procedure cannot be reduced to a matter of convenience. Where the statute fixes a maximum permissible period of investigative custody, liberty cannot be made to wait upon administrative explanations, filing ambiguities or post facto justifications.

2. The petitioners challenge the order dated 24.09.2025 passed in Cr.M.P.No.2826 of 2025 by the learned Additional District and Sessions Judge / Presiding Officer, Special Court for EC and NDPS Act Cases, Pudukottai, dismissing their petition for statutory bail under Section 187(3)(ii) of the Bharatiya Nagarik Suraksha Sanhita, 2023, corresponding to Section 167(2) Cr.P.C.

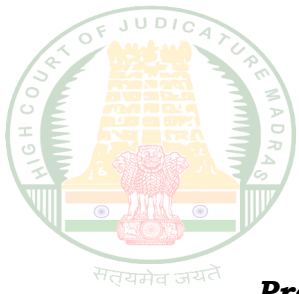


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Case of the Prosecution:

3. The prosecution case, in brief, is that on 24.03.2025, on receipt of secret information that ganja was being transported in a Tata Manza car bearing Registration No.KL-45-G-7475, the respondent police conducted vehicle checking at Othakadai Check Post. At about 7.40 a.m., the said vehicle was intercepted. The two occupants of the vehicle, who are the petitioners herein, allegedly attempted to escape, but were apprehended. Since they hailed from Kerala, they were enquired with the assistance of a translator. Upon search, 26.840 kilograms of ganja was allegedly recovered from the vehicle. The petitioners were thereafter arrested and remanded.

4. Crime No.123 of 2025 was registered for offences under Sections 8(c), 20(b)(ii)(C) and 25 of the NDPS Act. The contraband was allegedly seized under mahazar, samples were drawn, and the material was sent for chemical analysis. The respondent would further state that the RFSL report confirmed that the seized contraband was ganja.



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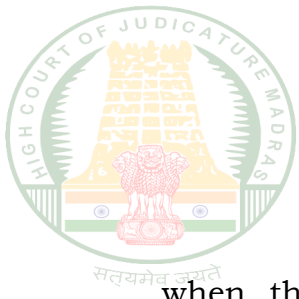
Procedural History:

5. The petitioners were remanded to judicial custody on 25.03.2025. Claiming that they had completed more than 180 days of custody and that no valid final report had been filed before the competent Court within the statutory period, they filed Cr.M.P.No. 2826 of 2025 before the Special Court seeking statutory bail.

6. The learned Special Court, by order dated 24.09.2025, dismissed the petition, primarily on the ground that the charge sheet had been filed through online mode on 13.08.2025. The learned Special Court also observed that the offence was serious in nature and against society. Aggrieved by the said order, the present Criminal Revision Case has been filed.

Submissions on either side:

7. The learned counsel for the petitioners submitted that the impugned order is *ex facie* illegal and contrary to the settled principles governing statutory bail. It was submitted that the petitioners had completed 180 days of custody and that on the date

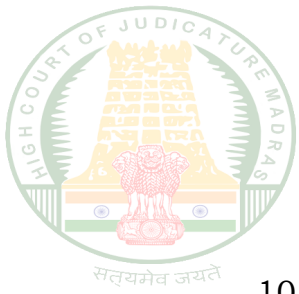


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when the statutory bail petition was filed, no final report was available before the Court in the eye of law.

8. The learned counsel further submitted that mere e-filing of a final report, especially when the manual charge sheet had not been filed and when the papers had not been taken on file, cannot defeat the indefeasible right of the accused. It was further argued that the prosecution never filed any application seeking extension of time under the proviso to Section 36-A(4) of the NDPS Act. Therefore, the period of investigation could not have been extended beyond 180 days.

9. The learned counsel also contended that while considering a petition for statutory bail, the Court cannot go into the gravity of the offence, merits of the seizure, or the rigour under Section 37 of the NDPS Act. The only enquiry is whether a valid final report had been filed within the prescribed period or whether the accused had availed the right before such filing.



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10. Per contra, the learned Government Advocate submitted that the offence involves 26.840 kilograms of ganja, which is commercial quantity, and that the petitioners were caught red-handed while transporting the contraband.

11. It was further submitted that the charge sheet was filed through e-filing within the statutory period. The respondent has stated that the final report was e-filed under E-file No.LTN20220002288C202500385, that it was returned with certain objections, that it was re-submitted after rectification, and that the case was subsequently taken on file as C.C.No.257 of 2025.

12. The learned Government Advocate relied upon the decision of this Court in **Varun and others v. State**¹, to contend that the date of e-filing of the final report can be treated as the date of filing and that physical production of the papers cannot be insisted upon in every case. In **Varun and others v. State**², this Court held that in the digital era, the date of e-filing of the final report may be treated as the date of filing, and not the later date on which hard copies are

¹ 2024 SCC OnLine Mad 162

² Supra 1



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brought before Court, provided the filing is otherwise complete. It was therefore submitted that the petitioners are not entitled to statutory bail.

13. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for Consideration:

14. The point that arises for consideration is whether the learned Special Court was justified in dismissing the petitioners' application for statutory bail under Section 187(3)(ii) BNSS read with Section 36-A(4) of the NDPS Act on the ground that the final report had been e-filed, though the manual charge sheet had not been filed and the final report had not been taken on file on the date when the petitioners invoked their right to statutory bail?

Statutory Scheme:

15. Section 187(3) BNSS, corresponding to Section 167(2) Cr.P.C., embodies a legislative command that an accused person cannot be detained in custody beyond the prescribed period if the



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investigation is not completed and the final report is not filed within such period.

16. In NDPS cases involving commercial quantity, Section 36-A(4) of the NDPS Act extends the ordinary period to 180 days. The proviso thereto permits extension up to one year, but only upon a report of the learned counsel appearing for State indicating the progress of investigation and specific reasons for continued detention beyond 180 days.

17. Therefore, in a commercial quantity NDPS case, the prosecution has two lawful courses: either to file a complete final report within 180 days, or to seek extension in the manner mandated by Section 36-A(4). If neither is done, and the accused applies for bail and is prepared to furnish sureties, the right to statutory bail becomes enforceable.

Governing Principles:

18. The Hon'ble Supreme Court has repeatedly held that the right to default bail is not a mere statutory concession but an



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indefeasible right linked to Article 21 of the Constitution. In **M. Ravindran v. Intelligence Officer, Directorate of Revenue Intelligence**³, the Hon'ble Supreme Court held that the date on which the accused applies for default bail is crucial for determining whether the right has accrued.

19. The Hon'ble Supreme Court has also held that once the accused has availed the right by filing an application after expiry of the statutory period and before filing of a valid final report, subsequent filing of the charge sheet cannot defeat such accrued right.

20. In the context of special statutes, the Hon'ble Supreme Court in **Bikramjit Singh v. State of Punjab**⁴ reiterated that default bail is part of the procedure established by law and is integrally connected with personal liberty under Article 21.

21. In NDPS cases, the proviso to Section 36-A(4) is not an empty formality. Extension of time requires an application by the

³ AIR 2020 SC 5245

⁴ AIR ONLINE 2020 SC 865



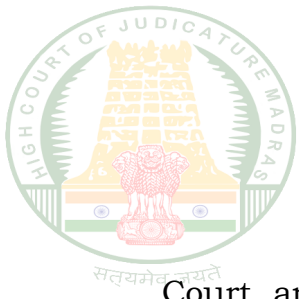
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learned Government Advocate, disclosure of progress of investigation and specific reasons for detention beyond 180 days. In the absence of such extension, continued custody beyond the permissible period cannot be justified merely by citing seriousness of offence.

22. In the case on hand, the petitioners were remanded on 25.03.2025. The statutory period of 180 days had expired before the filing of the statutory bail application. The prosecution does not contend that any application for extension under Section 36-A(4) of the NDPS Act was filed or allowed before expiry of 180 days. The entire resistance of the prosecution rests on the assertion that the final report had been e-filed on 13.08.2025 and therefore the petitioners cannot claim statutory bail.

23. It is true that e-filing of final reports has received judicial recognition. This Court in **Varun and others v. State**⁵ has held that, in appropriate cases, the date of e-filing may be treated as the date of filing. However, the said principle cannot be mechanically applied without examining whether the e-filing was complete, whether the final report was capable of being acted upon by the

⁵ Supra 1



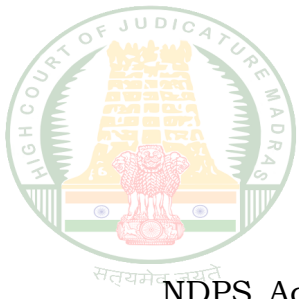
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Court, and whether the accused's right had already accrued before a legally valid filing came into existence.

24. The distinction is between a valid e-filing and an incomplete or defective uploading of papers. A complete e-filing, which merely awaits formal processing or numbering, may stand on one footing. An incomplete, defective, returned or non-actionable filing stands on another.

25. The impugned order itself records the prosecution's objection that "charge sheet filing through online on 13.08.2025 and returned on 19.09.2025; manual charge sheet not yet filed." Thus, the Special Court was required to examine whether the e-filed final report was a complete final report in law. Instead, it dismissed the petition merely by observing that the charge sheet had been filed online and that the offence was serious and against society.

26. The seriousness of the offence, however grave, has no role to play in deciding a statutory bail application. Section 37 of the



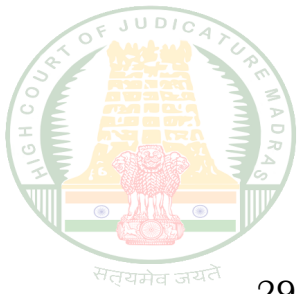
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NDPS Act governs regular bail. It cannot be imported to defeat an accrued right under Section 187(3) BNSS / Section 167(2) Cr.P.C.

27. The right to default bail is not founded on the innocence of the accused. It is founded on the failure of the investigating agency to complete the investigation within the time permitted by law. Therefore, the nature of contraband, the quantum of seizure, the possibility of tampering, and the gravity of accusation are matters relevant to regular bail, but not to default bail once the statutory conditions are satisfied.

28. The learned Special Court also appears to have proceeded on the premise that online filing alone was sufficient, without undertaking the necessary enquiry as to whether such filing was complete and valid. This approach is legally unsustainable. In the present case, the prosecution's own materials show that the e-filed final report was returned with objections and that the case was taken on file only subsequently as C.C.No.257 of 2025 on 07.10.2025.



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29. If the final report had not ripened into a valid filing before the petitioners invoked their right to statutory bail, the subsequent rectification, re-submission or taking cognizance cannot extinguish the accrued right. The indefeasible right of the accused cannot be defeated by treating every electronic upload, irrespective of its completeness, as a valid final report. Such an approach would reduce the constitutional protection under default bail jurisprudence to a matter of registry mechanics.

30. This Court is conscious that the NDPS Act is a stringent statute and that drug offences cause grave societal harm. However, strict laws require stricter adherence to procedure. The majesty of law lies not in bypassing safeguards but in enforcing them even in difficult cases. Since no extension under Section 36-A(4) of the NDPS Act was sought and since the learned Special Court did not record a finding that a complete and valid final report had been filed before the petitioners availed their statutory right, the rejection of statutory bail cannot be sustained.



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31. In view of the foregoing discussion, this Criminal Revision Case is **allowed**. The order dated 24.09.2025 passed in Cr.M.P.No. 2826 of 2025 by the learned Additional District and Sessions Judge / Presiding Officer, Special Court for EC and NDPS Act Cases, Pudukottai, is set aside.

32. The petitioners / accused are ordered to be released on statutory bail in Crime No.123 of 2025 on the file of the respondent police, subject to the following conditions:

- i. Each petitioner shall execute a bond for a sum of Rs.50,000/- with two sureties each for a like sum to the satisfaction of the learned Additional District and Sessions Judge / Presiding Officer, Special Court for EC and NDPS Act Cases, Pudukottai.
- ii. Each petitioner shall pay an amount of Rs.1,00,000/- each (Rupees One Lakh each) to the credit of the District Legal Services Authority, Sivagangai District, on the date of execution of bond as required supra.
- iii. The sureties shall affix their photographs and Left Thumb Impressions in the surety bond, and the learned Special Court



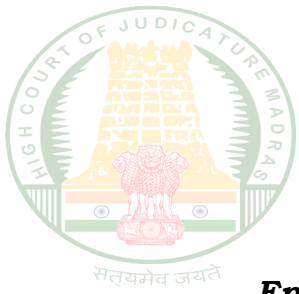
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may obtain a copy of their Aadhaar Card or Bank Passbook to ensure identity.

- iv. The petitioners shall appear before the learned Special Court on every hearing date unless their presence is dispensed with.
- v. The petitioners shall not tamper with evidence or influence witnesses.
- vi. The petitioners shall not leave India without prior permission of the learned Special Court.
- vii. The petitioners shall furnish their residential address and mobile numbers before the learned Special Court and shall keep the same active until conclusion of trial.
- viii. In case of breach of any of the above conditions, it is open to the respondent to seek cancellation of bail in the manner known to law.

33. It is made clear that this order is passed only on the ground of statutory/default bail and shall not be construed as an expression of opinion on the merits of the prosecution case.



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Epilogue:

34. The war against narcotic crime must be firm, fearless and uncompromising. But constitutional criminal procedure does not permit even a grave prosecution to travel outside the bounds of law. A default bail order is not an acquittal; it is a reminder that investigation must obey the calendar prescribed by Parliament. Liberty, once protected by statute and Constitution, cannot be postponed by procedural uncertainty. The State may prosecute with all lawful vigour; but custody beyond the statutory period must rest only on lawful compliance, not on seriousness of allegation alone.

08.06.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sml

To

- 1.The Additional District and Sessions Judge (Special Court for EC and NDPS Act Cases), Pudukottai.
- 2.The Inspector of Police, Devakottai Town Police Station, Sivagangai District.
- 3.The Additional Public Prosecutor,



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Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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