

Crl.OP(MD).No.1517 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**ORDER RESERVED ON : 17.03.2026**

**ORDER PRONOUNCED ON : 30.03.2026**  
CORAM

**THE HONOURABLE MR JUSTICE R.VIJAYAKUMAR**

**Crl.OP(MD).No.1517 of 2026**

Rahim

....Petitioner

Vs

State of Tamil Nadu  
Rep.by the Inspector of Police  
Thalamuthunagar Police Station  
Thoothukudi  
Thoothukudi District  
Crime No.476 of 2025

....Respondent

**Prayer:**The Criminal Original Petition filed under Section 528 BNSS, 2023, to call for the records and set aside the order dated 11.12.2025 passed in Crl.M.P.No.4206 of 2025 on the file of the Sessions Judge, Principal Special Court for NDPS Act Cases, Madurai, Madurai District.

For Petitioner

: Mr.K.P.S.Palanivelrajan  
Senior Counsel for  
Mr.S.Vishnuvardhan

For Respondent

:Mr.R.Meenakshi Sundaram  
Additional Public Prosecutor



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## **ORDER**

The present petition has been filed by the second accused in Crime No. 476 of 2025 on the file of the respondent police challenging the dismissal of his application filed under Section 187 (3) of BNSS seeking statutory bail.

### **(A).Facts leading to the filing of this petition are as follows:**

2.The petitioner herein was implicated as the second accused in Crime No.476 of 2025 on the file of the respondent police on 11.06.2025 for the alleged offences under Section 8(c) read with Section 22(c) of Narcotic Drugs & Psychotropic Substances Act, 1985. The petitioner was arrested and remanded to judicial custody on 11.06.2025 itself.

3.As per Section 36-A(4) of NDPS Act, 1985 “90 days” occurring under Section 167(2) Cr.P.C shall be construed as reference to “ 180 days”. As per Section 167(2) Cr.P.C, magistrate has no jurisdiction to authorise detention of an accused in judicial custody beyond a period of 90 days ( has to reach as 180 days) in view of Section 36-A(4) of NDPS Act. Therefore, if the charge sheet is not laid on 180<sup>th</sup> day, the accused person would be entitled to statutory bail. The petitioner herein having been remanded on 11.06.2025, the 180<sup>th</sup> day falls on 07.12.2025 (including the date of order of remand).



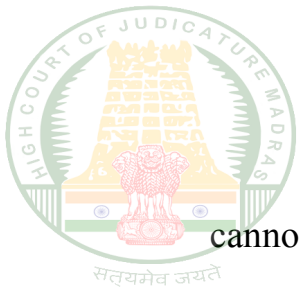
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4. According to the prosecution, the charge sheet laid on 07.12.2025 namely on 180<sup>th</sup> day and LTN20220002624C202501073 was assigned. However, instead of e-filing the charge sheet before NDPS Act, it was wrongly uploaded to the Principal District Court, Madurai. The mistake was rectified and the charge sheet was laid before the NDPS Act on 09.12.2025. The accused person/petitioner had filed a statutory bail petition only on 09.12.2025 namely on 182<sup>nd</sup> day. Therefore, when the statutory bail petition came up for hearing before the trial Court, the final report has already been filed. This submission of the prosecution was accepted by the trial Court and the trial Court proceeded to dismiss the statutory bail application. While dismissing, the trial Court also taken into consideration that the seized quantity is a commercial quantity and therefore, the Court is not inclined to allow the petition. Challenging the same the present petition has been filed under Section 528 of BNSS, 2023.

**(B).Submissions of the learned counsels appearing on either side:**

5. According to the learned Senior Counsel appearing for the petitioner, the charge sheet was laid on 07.12.2025 before a wrong forum. It should only be considered to be a defective charge sheet. The petitioner has filed his statutory bail application on 09.12.2025 even before the final report reached the Court. When the statutory benefit is accrued to the petitioner/accused, it



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cannot be taken away by filing the charge sheet on a subsequent date or subsequent time.

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6.The learned Senior Counsel had further submitted that on 07.12.2025, only login was made and no documents were uploaded. The entire charge sheet and other enclosures were uploaded only on 08.12.2025 at about 13.18 hours even before the wrong forum. The said filing was rejected by the Principal District Court, Madurai only on 17.02.2026. The investigating agency has re-filed the charge sheet before NDPS Court only on 09.12.2025 i.e on 182<sup>nd</sup> day. Therefore, it should be construed that the charge sheet was laid only on 182<sup>nd</sup> days. According to him, when the charge sheet and the statutory bail petition were filed on the same day, the fundamental rights have been accrued to the petitioner cannot be taken away and it should be construed in favour of the accused person that the default bail application had preceded in filing of the charge sheet.

7.The learned Senior Counsel appearing for the petitioner had further submitted that in an application seeking statutory bail under Section 167(2) of Cr.P.C, the Court is not entitled to go into the merits of the bail petition. Therefore, the trial Court was not right in referring to the commercial quantity and proceedings to dismiss the application. He had further stated that



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only if a regular bail application is filed, the Court would empower to consider the merits of the bail petition. However, in a statutory bail petition, due to non-filing of the charge sheet within the stipulated date, the accused person gets a fundamental right to consider his application for bail and it is automatic without being considered on its merits. Hence, he prayed for setting aside the order passed by the trial Court and to grant statutory bail.

8.The learned Senior Counsel had relied upon the decisions of the Hon'ble Supreme Court reported in **(2023) 17 SCC 48** (*Judgebir Singh Alias Jasbir Singh Samra Alias Jasbir and others Vs.National Investigation Agency*); **(2017 15 SCC 67** (*Rakesh Kumar Paul Vs.State of Assam*); **(2024) 12 SCC 116** (*Ritu Chhabaria Vs. Union of India and others*) and **(2024) 7 SCC 147** (*Enforcement Directorate, Government of India Vs. Kapil Wadhawan and another*) in support of his contentions.

9.Per contra, the learned Additional Public Prosecutor appearing for the respondents relied upon **(2015) 8 SCC 340** (*Ravi Prakash Singh Alias Arvind Singh Vs.State of Bihar*) submitted that the day on which the accused was remanded to judicial custody has to be excluded and in such circumstances, the entire charge sheet along with all the enclosures have been uploaded on 08.12.2025 is well within 180 days period. An alternative, he



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further submitted that uploading of the document was started on 07.12.2025

itself at about 22.01 p.m and the documents were uploaded one by one.

Therefore, even on 179<sup>th</sup> day, the charge sheet was uploaded through e-filing.

The statutory bail application having filed on 09.12.2025 is clearly after filing of the charge sheet and therefore, the trial Court has rightly rejected the petition.

10.The learned Additional Public Prosecutor had further submitted that on 08.12.2025 the documents were uploaded through e-filing before Principal District Court, Madurai due to typographical error. The error was rectified and it was rightly uploaded on 09.12.2025 before NDPS Court. Therefore, the Court cannot take a technical view as if the charge sheet was uploaded only on 09.12.2025. The charge sheet having been uploaded on 07.12.2025 or at least on 08.12.2025 should be construed to have been filed on the 180<sup>th</sup> day or at least before filing of the statutory bail petition.

11.The learned Additional Public Prosecutor had also relied upon the decision of the Hon'ble Supreme Court reported in (2001) 5 SCC 453 (Uday Mohanlal Acharya Vs.State of Maharashtra), especially Paragraph No.23 in support of his contentions and submitted that the right of the accused to get statutory bail is enforceable only prior to the filing of the charge sheet and it



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does not survive on the charge sheet is being filed. In the preset case, according to him, the charge sheet having been filed on 07.12.2025/08.12.2025 and the statutory bail petition having filed on 09.12.2025 is clearly not maintainable. Hence, he prayed for confirming the order passed by the trial Court.

12.I have considered the submissions made on either side and perused the material records.

**(C).Discussion:**

13.The petitioner has been arrested and remanded to judicial custody on 11.06.2025. The learned counsel appearing for the petitioner had relied upon the decision of the Hon'ble Supreme Court reported in *(2015) 8 SCC 340 (Ravi Prakash Singh Alias Arvind Singh Vs.State of Bihar) (Two Judges Bench)* to contend that the day on which the accused was remanded to judicial custody has to be excluded and therefore, the 180<sup>th</sup> days would fall only on 08.12.2025.

14.The judgment of the Hon'ble Three Judges Bench of the Supreme Court reported in *(2024) 7 SCC 147 (Enforcement Directorate, Government of India Vs. Kapil Wadhawan and another)* in Paragraph Nos.45 and 62 has



held as follows:

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*“45. Furthermore, if an accused is remanded by a Magistrate on say, 01.01.2023, then, the police, post judicial scrutiny, is empowered to investigate, starting on the same day, as per Section 167 Cr.PC, irrespective of whether the police actually commence investigation on the same day. So, if the police is empowered to investigate an accused person on the day of the remand order itself, the 60/90 day stipulated period, upon whose expiry, the right of default bail accrues to the accused, should logically be calculated from that day itself. Ignoring the date of remand under Section 167 Cr.PC in the 60/90 day period, would in our opinion, militate against the legislative intent of providing an accused protection from being in prolonged custody, because of slothful investigation.*

*62. We therefore declare that the stipulated 60/90 day remand period under Section 167 Cr.PC ought to be computed from the date when a Magistrate authorizes remand. If the first day of remand is excluded, the remand period, as we notice will extend beyond the permitted 60/90 days' period resulting in unauthorized detention beyond the period envisaged under Section 167 Cr.P.C. In cases where the charge-sheet/final report is filed on or after the 61 st/91st day, the accused in our considered opinion would be entitled to default bail. In other words, the very moment the stipulated 60/90 day remand period expires, an indefeasible right to default bail accrues to the accused. “*

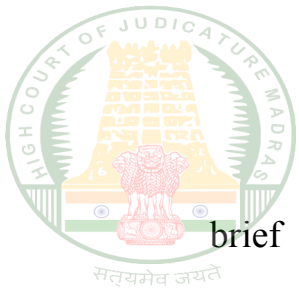


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15. In view of the Three Judges Bench of the Hon'ble Supreme Court, it is clear that the date of passing of order of remand by the magistrate should also be taken into account for the purpose of calculating 180 days. In the present case, the order of remand is dated 11.06.2025 and therefore, the 180<sup>th</sup> days falls on 07.12.2025.

16. No doubt it is true that certain login details are available at about 22.01 hours on 07.12.2025 for initiating the case entry by the investigating agency and LTN20220002624C202501073 has also been generated.

17. A perusal of the procedure contemplated for generating LTN.Number reveals that the investigating agency has to upload certain minimum details for generating an LTN.Number viz., name of the Court, type of case, relief sought, CC/STC/SC number, plaintiff and the Mobile Number. A perusal of the e-filing acknowledgement for the above said case and for the above LTN number on 07.12.2025 reveals that the case entry has been initiated on 07.12.2025 at about 22.01 hours only by uploading these minimum details. Therefore, the uploading of these minimum details for the purpose of generating LTN number on a particular date cannot be considered to be uploading of the entire charge sheet with all the enclosures as contemplated under Section 173(2) Cr.P.C. In fact, not a single document or



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brief notes of the charges relating to the case have been uploaded on 07.12.2025. All the documents have been uploaded only on 08.12.2025 at about 13.18 hours. Therefore, the contentions of the learned Additional Public Prosecutor that the charge sheet was uploaded through e-filing on 07.12.2025 has to be rejected. The charge sheet has been filed only on 08.12.2025 i.e. on the 181<sup>st</sup> day.

18.The charge sheet that was laid on 08.12.2025 on 181<sup>st</sup> day is not before the appropriate Court namely the Special Court for NDPS Act Cases, Madurai. It has been uploaded to the web-page of Principal District Court, Madurai. A perusal of the record reveals that the petitioner was remanded to judicial custody only by the Special Court for NDPS Act Cases, Madurai. Therefore, the investigating agency is aware of the fact that the Special Court for NDPS Act Cases is the designated Court for trying the offences under NDPS Act. However, the charge sheet has been e-filed before the Principal District Court, Madurai and in such circumstances, it can only be construed to be a defective filing of the charge sheet or non-filing of the charge sheet before proper jurisdictional Court, namely the Special Court for NDPS Act Cases. In such circumstances, even assuming that the charge sheet was uploaded in entirety on 08.12.2025, the said charge sheet, having been uploaded before a wrong forum, cannot be construed to be in compliance



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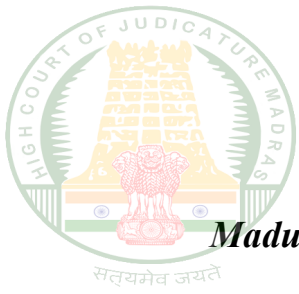
with the provisions of Section 173 (2) Cr.P.C. Therefore, filing of the charge sheet before the wrong forum would not in any way affect the rights of the accused person in seeking statutory bail.

19.From the records, it could also be seen that the charge sheet was uploaded before the Special Court for NDPS Act Cases on 09.12.2025 at 15.11 hours in LTN20220002624C202501078. The petitioner has filed his statutory bail petition on the same day namely on 09.12.2025. The E-filing case status of filing of final report before NDPS Court is extracted as follows:

E-Filing No.	Pet Name/Res Name	Case e-Filed On	Case Consumed in CIS	Case Verified On
LTN20220002624C202501078	Inspector of police,thalamuthunagar police stationVs.Selva kumar	09-12-2025 15:11:56	11-12-2025 12:45:14	11-12-2025 12:45:14

20.The next issue that arises for consideration is when the final report is filed beyond 180<sup>th</sup> day and the statutory bail application is also filed on the same day, whether the statutory bail application can be rejected on the ground that already final report has been filed. This issue is no longer res integra.

21.This Court in a judgment reported in **2021 SCC Online Mad 17811 (K.Muthuirul Vs. Inspector of Police, Samayanallur Police Station,**



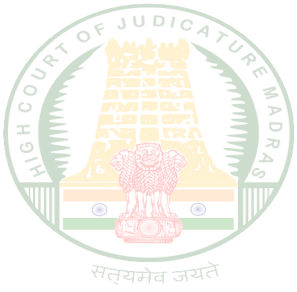
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**Madurai District)** while considering a similar situation arising out of filing of final report and the statutory bail application on the same day in Paragraph

Nos. 24 and 27 has held as follows:

*“24.As already pointed out, the investigating agency is duty bound to file their final report before expiry of 60 or 90 or 180 days, as the case may be, and on the next day i.e, 61st or 91st or 181st day only, the right to apply for statutory bail gets accrued to the accused and there must be some reasonable time limit enabling him to apply for the default bail. In Tamil Nadu, all the Courts shall ordinarily sit at 10.30.am. If the investigating agency files the charge sheet by 10.30 am, on the next day, after the expiry of the period prescribed under Section 167(2) Cr.P.C, can we say that the accused has lost his right of filing the petition for default bail subsequently, on the same day. In my considered view, the accused can exercise his right to apply the default bail on the whole day, on which, the indefeasible right to apply the statutory bail accrues to him.*

*27.Considering the above, this Court has no hesitation to hold that since the petitioner has availed of his indefeasible right to bail on 18.10.2021 and offered to abide by the terms and conditions to be imposed, the subsequent or even simultaneous filing of the charge sheet does not disentitle the petitioner from claiming the default bail.”*



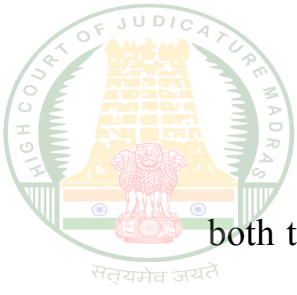
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22. In view of the above said decision of this Hon'ble Court, it is clear that when a charge sheet is laid beyond 180<sup>th</sup> day and the statutory bail application is also filed on the same day, indefeasible right of the accused to seek statutory bail will not get lost.

23. The Hon'ble Supreme Court in a judgment reported in (2021) 2 SCC 485 (*M.Ravindran Vs. Intelligence Officer, Directorate of Revenue Intelligence*) in Paragraph No.17.9 has held as follows:

*“17.9. Additionally, it is well-settled that in case of any ambiguity in the construction of a penal statute, the Courts must favour the interpretation which leans towards protecting the rights of the accused, given the ubiquitous power disparity between the individual accused and the State machinery. This is applicable not only in the case of substantive penal statutes but also in the case of procedures providing for the curtailment of the liberty of the accused.”*

24. In view of the judgment of the Hon'ble Supreme Court, in case of ambiguity with regard to the construction of a penal statute, the Courts must favour the interpretation which leans towards protecting the rights of the accused. In the present case, the charge sheet has not been laid on 180<sup>th</sup> day but it has been laid before the appropriate forum only on the 182<sup>nd</sup> day. When



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both the final report and the statutory bail application have been filed on the same day, the right that has already accrued in favour of the accused person will not get lost merely on the ground that on the same day, the charge sheet came to be laid.

**(D).Conclusion:**

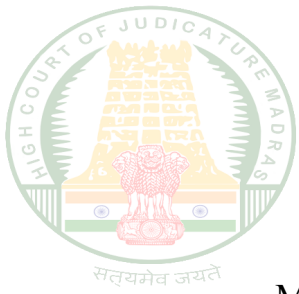
25.In the result, this Criminal Original Petition is allowed and the order passed in Crl.M.P.No.4206 of 2025 in Crime No.476 of 2025 on the file of the Sessions Judge, Principal Special Court for NDPS Act Cases, Madurai, Madurai District on 11.12.2025 is hereby set aside. The petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.25,000/- with two sureties each for a like-sum to the satisfaction of the Sessions Judge, Principal Special Court for NDPS Act Cases, Madurai subject to the following conditions.

i) 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;

ii) the petitioner shall report before the concerned Court on every Monday at 10.30 a.m until further orders.

iii)the petitioner shall not tamper with evidence or witness.

iv) the petitioner shall not abscond during trial.



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v) 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].

vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

**30-03-2026**

Internet : Yes/No  
Index : Yes/No  
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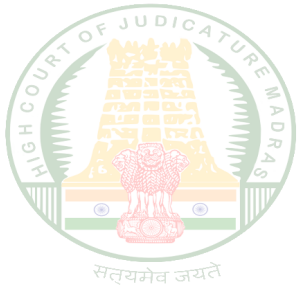
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1. The Sessions Judge,  
Principal Special Court for NDPS Act Cases,  
Madurai District

2. The Inspector of Police  
Thalamuthunagar Police Station  
Thoothukudi  
Thoothukudi District  
Crime No.476 of 2025

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



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**R.VIJAYAKUMAR, J.**

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