

In the court of the Additional District Judge/Presiding Officer,
Special Court Under Essential Commodities Act, Thanjavur.

Present:-**Thiru. G. Sundararajan, B.Sc., B.L.,**
Additional District Judge/Presiding Officer,
Special Court under Essential Commodities Act, Thanjavur.

Monday, the 16th day of March 2026.

Criminal Miscellaneous Petition No.1750/2026
CNR.No.TNTJ010022632026

Gopi @ Vedi gopi, 37/2026,
S/o.Selvaraj

.... Petitioner/Accused

...Vs...

State by the Inspector of police
Town South Police Station, Thanjavur
Cr.No.86/2026

.... Respondent/Complainant

This petition came up before me for hearing on 13.03.2026 in the presence of Thiru.V.Boopathinathan, Advocate for the petitioner/accused and Thiru.N.Ranjith, Special Public Prosecutor appearing for the Respondent/Complainant and upon hearing the arguments of both sides and on perusal of records this court passed the following,

ORDER

This petition has been filed under section 483 of BNSS praying an order to enlarge the petitioner/accused on bail.

2) The petitioner has been charged for the offences under section 8(c) r/w 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substance Act 1985 for the alleged unlawful possession of 21.580 kilograms of ganja and he was arrested and remanded to judicial custody on 21.02.2026 and he is

innocent person and the case has been registered as if the petitioner was found in possession of contraband of commercial quantity. The petitioner further submitted that, as per the directions of Madras High Court Madurai Bench, Criminal Appeal No.618/2025 in CrI.MD.No.366/2026 dated 08.01.2026, he has been regular in appearing and signing before the Karur Town Police Station, Karur from 09.01.2026 to 19.02.2026 at 5.30 PM, while so on 20.02.2026 the petitioner came to Thanjavur to attend the hearing of the cases in CC.No.111/2021 and CC.No.249/2021 before JM No.II Court, Thanjavur and he needed particular document for the said case and went to his home, unfortunately, the petitioner family was unavailable due to his wife's sister marriage and he was told by his wife as she is in Swamimalai along with children. So the petitioner pickup his wife and children and on the way to his home. Subsequently his relatives marriage function at Thanjavur, Vilar Road, PTS Mahal, at the time 12.05 PM. He stop his car at the time suddenly without wearing any police uniform 5 male persons including Thennarasu and Arunmozhivarman brought a car No.TN-7C-X-3636 TATA Nexon and kidnapped him in the car without showing any arrest memo or following due procedure of law. After that, petitioner wife filed application u/s.100 BNSS Act before Judicial Magistrate Court No.II, Thanjavur and the petition was taken on

file the same day in Cr.M.P.No.141/2026 and his wife already given a detailed complaint to the higher officials narrating the illegal abduction and false implication of him. The said complaint clearly establishes the malafide action on the part of the police officials and he is permanent resident above said address has deep roots in society. There is no possibility of the petitioner absconding or tampering with evidence and prayed to release him on bail.

3) On the other hand, the learned Special Public Prosecutor would submit that the Inspector of police, Town South police station, Thanjavur received secret information on 20.02.2026 at 15.10 hours and after compliance of due procedure, shealong with her police parties went to the spot of goodshet road, Thanjavur at 16.00 hours and found one person was standing with the identification as told by her informant and on seeing the police parties, he tried to escape, but the respondent police caught hold him and on enquiry, he spelled his name as Gopi @ Vedi Gopi and found he is a history sheeted rowdy in Thanjavur South police station HS.No.185/2014. Upon search of the accused, he handed over white colour gunny bag from the front of his Black colour Splender motor cycle bearing Reg.No.TN.20-CP-6303 and on search of the vehicle and found 10 white colour polythene cover having capacity of 1 kg and she searched the bag and found ganja,

then, she arrested the accused at 16.20 hours and informed to his relative and then, recorded his confession statement. After that, she weighed the ganja in the electronic weighing machine and found 21.580 kgs and thereafter seized contraband ganja as well as his motor cycle under the seizure mahazar and then, brought him along with the seized properties and registered a case against him in Cr.No.86/2026 u/s.8(c), 20(b)(ii)(C) of NDPS Act and then, remanded to Judicial custody on 21.02.2026. The learned Special Public Prosecutor would further submit that the seized contraband is of commercial quantity and the accused having criminal antecedents and had 31 previous cases and strongly opposed to release the accused on bail.

4) Heard both sides, records perused. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and he was arrested by the Special team on 20.02.2026 at 12.00 hours. Immediate to the arrest of the accused, his wife filed a petition before the Judicial Magistrate No.2, Thanjavur u/s.100 of BNSS and the learned Judicial Magistrate recorded the sworn statement of the wife of the accused, but this case falsely registered as the accused was arrested at 16.00 hours with alleged unlawful possession of ganja 21.580 kgs.

5) The learned counsel appearing for the petitioner stated that the accused was taken into custody of 5 ununiformed police persons on 20.02.2026 at 12.00 hours and produced a pen drive containing the CCTV footage of the same, but the Inspector of police alleged that the accused was arrested on 20.02.2026 at 16.00 hours with possession of ganja. So, the arrest of the accused is illegal.

6) Per contra, the learned Special Public Prosecutor would submit that the CCTV footage produced by the accused would not be in accordance with law and no proper certificate annexed with the CCTV footage and no hash value mentioned in the furnished certificate, so, which is not reliable at this stage of bail application. In the case of **State of Orissa ..Vs. Debendra Nath Padhi (2005(1) SCC 568)** where our Hon'ble Apex court held that accused cannot rely on defence material at the stage before trial, at early stages like bail or discharge. In view of the judgment of Hon'ble Apex court, the defence material produced by the accused at this stage of bail before the trial would not be relied on.

7) Further, the learned counsel for the petitioner had referred on the FIR and submitted that the police along with flower, leaf and seed, the contraband was recovered. As per definition sec.2(b) of NDPS Act contraband includes flowering or fruiting top 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 in support of his submission, he relied upon the order passed in **Crl. OP(MD) No.10537 of 2025, dated 20.02.2026** and submitted that the recovered quantity 21.580 kgs of ganja included the leaves and seeds, which would not fall in the definition of ganja

8) Admittedly, as held by the decision of Hon'ble High Court of Madras in the aforesaid Crl.O.P. if seeds and leaves of cannabis plant are accompanied by flowering tops or fruiting tops, then it would amount to ganja. However, when the seeds and leaves are not accompanied by the flowering tops, then, it would not be considered as ganja. In this case, the investigation is pending and the chemical analysis report of seized contraband is not received. Only after receipt of the chemical analysis report, then, only the correct constituent of the contraband would be revealed, now it is pre-mature to decide the issues at present.

9) As per the prosecution case, the petitioner was found with possession of 21.580 kgs of ganja, which falls under commercial quantity as defined under the NDPS Act.

Under section 37 of NDPS Act, bail can be granted only if the court is satisfied the twin conditions as below;

1) There are reasonable grounds for believing that the accused is not guilty of the alleged offence and

2) The accused is not likely to commit any offence while on bail.

Moreover, the Hon'ble Supreme court in **State of Kerala .. Vs .. Rajesh** reported in **2020(12) SCC 122** has held that a liberal approach in the matter of bail under the NDPS Act is uncalled for, and that the court must strictly satisfy the twin conditions prescribed under sec.37 of NDPS Act before granting bail.

10) In this case, this court is not satisfied that the twin conditions contemplated u/s.37 of NDPS Act are fulfilled, since, the accused is having criminal antecedents and had 31 previous cases. Considering the serious nature of the offence, the commercial quantity involved and the statutory restrictions u/s.37 of NDPS Act, this court is not inclined to grant bail to the petitioner, accordingly this petition is dismissed.

In the result, this petition is dismissed.

Pronounced by me in the open court, this the 16th day of March 2026.

Additional District Judge/Presiding Officer,
Special Court under E.C. Act, Thanjavur.