

Reginamary Chellamani
v.
State Rep by Superintendent of Customs

(Criminal Appeal No. 701 of 2026)

05 February 2026

[Sanjay Kumar and K. Vinod Chandran, JJ.]

Issue for Consideration

Issue pertains to grant of bail to the appellant for commission of offence punishable u/s.8(c) r/w ss.20(b)(ii)(C), 22(c), 23, 28 and 29 of the NDPS Act r/w s.135 of the Customs Act; and the right of the accused to free legal aid counsel.

Headnotes[†]

Narcotic Drugs and Psychotropic Substances Act, 1985 – s.8(c) r/w ss.20(b)(ii)(C), 22(c), 23, 28 and 29 – Customs Act, 1962 – s.135 – Bail – Grant of – Case registered against the appellant for the offences punishable u/s.8(c) r/w ss.20(b)(ii)(C), 22(c), 23, 28 and 29 of the NDPS Act r/w s.135 of the Customs Act, on account of seizure of contraband substance from the person of the appellant above the commercial quantity prescribed – Denial of regular bail by the High Court – Challenge to:

Held: Given the length of incarceration that the appellant has already suffered-4 years 1 month and 28 days, and as an identically situated accused person, who was travelling along with the appellant, on the same flight, has been granted bail by this Court, the appellant granted bail at this stage on stringent terms and conditions to be fixed by the trial court – Impugned order set aside. [Paras 3-6]

Legal aid – Free legal aid – Right of the accused to legal representation – Trial courts dealing with criminal proceedings, to inform the accused of their right to legal representation and their entitlement to be represented by legal aid counsel in the event they cannot afford a counsel – Trial courts to record the offer made to the accused, their response to such offer and also the action taken in their orders, before commencing examination of the witnesses – This procedure to be adopted and put in practice scrupulously – Order to be communicated

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to the Chief Justices of all the High Courts to enable suitable instructions being issued in this regard to all the concerned trial courts within the State. [Paras 11-13]

List of Acts

Narcotic Drugs and Psychotropic Substances Act, 1985; Customs Act, 1962.

List of Keywords

Grant of bail; Right of the accused to free legal aid counsel; Contraband substance; Denial of regular bail; Length of incarceration; Identically situated accused person; Legal aid; Free legal aid.

Case Arising From

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 701 of 2026

From the Judgment and Order dated 24.07.2025 of the High Court of Judicature at Madras in CRLOP No. 7857 of 2025

Appearances for Parties

Advs. for the Appellant(s):

Raghenth Basant, Sr. Adv., Swastik Dalai, M. Srinivasan, Ms. Kaushitaki Sharma, Ms. Bagavathy Vennimalai, E. Shanthakumar, T. Yuvaresh.

Advs. for the Respondent(s):

S.D. Sanjay, A.S.G., Ms. Navroop Jawanda, Ms. Parthvi Ahuja, Khushal Kolwar, Ms. Disha Thakkar, Gurmeet Singh Makker, Rajat Nair, Ms. Aastha Singh, Ms. Mili Baxi, Alankar Gupta, Raman Yadav.

Judgment / Order of the Supreme Court**Order**

1. Leave granted.
2. The appellant, Reginamary Chellamani, is aggrieved by the denial of regular bail by the High Court of Judicature at Madras, *vide* order dated 24.07.2025 passed in Crl.O.P. No. 7857/2025, in relation

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to Case R.R. No. 41/2021 (C.C. No. 225/2022 on the file of the learned Principal Special Judge under EC and NDPS Act Cases, Chennai), for the offences punishable under Section 8(c) read with Sections 20(b)(ii)(C), 22(c), 23, 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985¹ read with Section 135 of the Customs Act, 1962.

3. The amount of contraband substance allegedly seized from the person of the appellant, Reginamary Chellamani, is stated to be above the commercial quantity prescribed in that regard under the aforestated enactment. We, however, find that the appellant, Reginamary Chellamani, has been in custody for 4 years 1 month and 28 days as on date.
4. Given the length of incarceration that the appellant has already suffered and as an identically situated accused person, who was travelling along with the appellant, Reginamary Chellamani, on the same flight, has been granted bail by this Court, we are inclined to grant the same relief to the appellant at this stage.
5. The appeal is accordingly allowed, setting aside the impugned order dated 24.07.2025.
6. The appellant, Reginamary Chellamani, is directed to be released on bail in connection with the aforestated NDPS case, on stringent terms and conditions to be fixed by the trial Court. In addition, the appellant, Reginamary Chellamani, shall surrender her passport before the trial Court.
7. The appellant, Reginamary Chellamani, shall cooperate during the course of the trial and shall not take unnecessary adjournments.
8. The trial Court shall endeavour to conclude the trial at the earliest.
9. We clarify that we have not made any observations/comments on the merits of the case and any observation made in this order is meant only for the limited purpose of grant of bail.
10. We may also note at this stage that the appellant did not cross examine the witnesses at the initial stage and it was only after she engaged her own counsel and her application for re-examining those witnesses was allowed that she was permitted to do so.

1 "NDPS Act", for short

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11. It is incumbent upon the trial Courts dealing with criminal proceedings, faced with such situations, to inform the accused of their right to legal representation and their entitlement to be represented by legal aid counsel in the event they cannot afford a counsel. The trial Courts shall record the offer made to the accused in this regard, the response of the accused to such offer and also the action taken thereupon in their orders, before commencing examination of the witnesses.
12. This procedure requires to be adopted and put in practice scrupulously.
13. This order shall be communicated to the Chief Justices of all the High Courts to enable suitable instructions being issued in this regard to all the concerned trial Courts within the State.
14. Pending application(s), if any, shall stand disposed of.

Result of the case: Appeal allowed.

†Headnotes prepared by: Nidhi Jain