

2026 LiveLaw (SC) 121

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**SANJAY KUMAR; J., K. VINOD CHANDRAN; J.
SLP(Crl.) No. 18886/2025; FEBRUARY 05, 2026**

REGINAMARY CHELLAMANI *versus* STATE REP BY SUPERINTENDENT OF CUSTOMS

Criminal Procedure — Bail — Narcotics Drugs and Psychotropic Substances Act, 1985 — Sections 8(c), 20(b)(ii)(C), 22(c), 23, 28, and 29 — Commercial Quantity — Prolonged Incarceration — Parity — The Supreme Court granted regular bail to the appellant despite the seizure of a commercial quantity of contraband - noted that the appellant had been in custody for 4 years, 1 month, and 28 days - Relief was further justified on the grounds of parity, as an identically situated accused person traveling on the same flight had already been granted bail by the Court – Supreme Court set aside the High Court’s order denying bail and directed release on stringent terms, including the surrender of her passport.

Criminal Procedure — Legal Aid — Rights of the Accused — Fair Trial — Mandatory Procedure for Trial Courts — The Supreme Court observed that the appellant initially failed to cross-examine witnesses until she engaged her own counsel – Noted that Trial Courts are duty-bound to inform accused persons of their right to legal representation and their entitlement to legal aid counsel if they cannot afford one - Mandatory Directions - Trial Courts must scrupulously adopt a procedure to record in their orders: (i) the offer of legal aid made to the accused, (ii) the response of the accused, and (iii) the action taken thereon, all before commencing the examination of witnesses - This order is to be communicated to the Chief Justices of all High Courts for issuance of suitable instructions to all concerned Trial Courts.

For Petitioner(s): Mr. Raghenath Basant, Sr. Adv. Mr. Swastik Dalai, AOR Mr. M. Srinivasan, Adv. Ms. Kaushitaki Sharma, Adv. Ms. Bagavathy Vennimalai, Adv. Mr. E. Shanthakumar, Adv. Mr. T. Yuvaresh, Adv.

For Respondent(s): Mr. S.D. Sanjay, A.S.G. Ms. Navroop Jawanda, Adv. Ms. Parthvi Ahuja, Adv. Mr. Khushal Kolwar, Adv. Ms. Disha Thakkar, Adv. Mr. Gurmeet Singh Makker, AOR Mr. Rajat Nair, Adv. Ms. Aastha Singh, Adv. Ms. Mili Baxi, Adv. Mr. Alankar Gupta, Adv. Mr. Raman Yadav, Adv.

ORDER

Leave granted.

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 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.

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.

¹ “NDPS Act”, for short

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.

The appeal is accordingly allowed, setting aside the impugned order dated 24.07.2025.

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.

The appellant, Reginamary Chellamani, shall cooperate during the course of the trial and shall not take unnecessary adjournments.

The trial Court shall endeavour to conclude the trial at the earliest.

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.

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.

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.

This procedure requires to be adopted and put in practice scrupulously.

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.

Pending application(s), if any, shall stand disposed of.