

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2020

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

CRL.O.P.No. 8979 of 2020

Saroja

... Petitioner

Vs.

The Inspector of Police,
N.I.B & C.I.D Police,
Kancheepuram.

... Respondent

Prayer : Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioner on bail in Crime No.38/2018 on the file of the Inspector of Police N.I.B & C.I.D Police, Kancheepuram.

For Petitioner : Mr.S.Ravichandran

For Respondent : Mr.C. Iyyappa Raj
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 25.09.2018 for the offences punishable under Section 8 (c) r/w 20 (b) (II) (C) of N.D.P.S. Act, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was found in possession of 22 kg of Ganja when she was intercepted on 25.09.2018 and she was unable to give any valid reason for having Ganja in her personal possession. Thereafter, following the legal formalities, the contraband was seized, the petitioner was arrested and contraband was sent to the Court.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and she was not involved in any illegal activity. He further submitted that in this case, on completion of the investigation, charge sheet was filed, which was taken on file in C.C.No.181/2018. The respondent police have produced totally five witnesses and all of them are officials only and no independent witness was examined. The chief and cross examination were already completed for 4 witnesses, viz., P.W.1 to P.W.4 and in respect of PW5/Investigating Officer, chief examination was over, but cross examination is still pending. Thereafter, a petition under Section 311 Cr.P.C., was filed for cross-examination of PW5 and the same was allowed. However, the Investigation Officer failed to appear for cross examination for two hearings. In the meanwhile, the petitioner's bail application was rejected by the Trial Court by an order dated 13.05.2020 stating that Section 37 of the NDPS Act is not satisfied and she is not entitled to release on the pretext of Covid 19 situation. The

petitioner is suffering from breathing problem and there is widespread of Corona in Jail. Since she is under detention for prolonged period, she could not look after her husband and take care of his medical treatment. Hence, seeks bail for the petitioner.

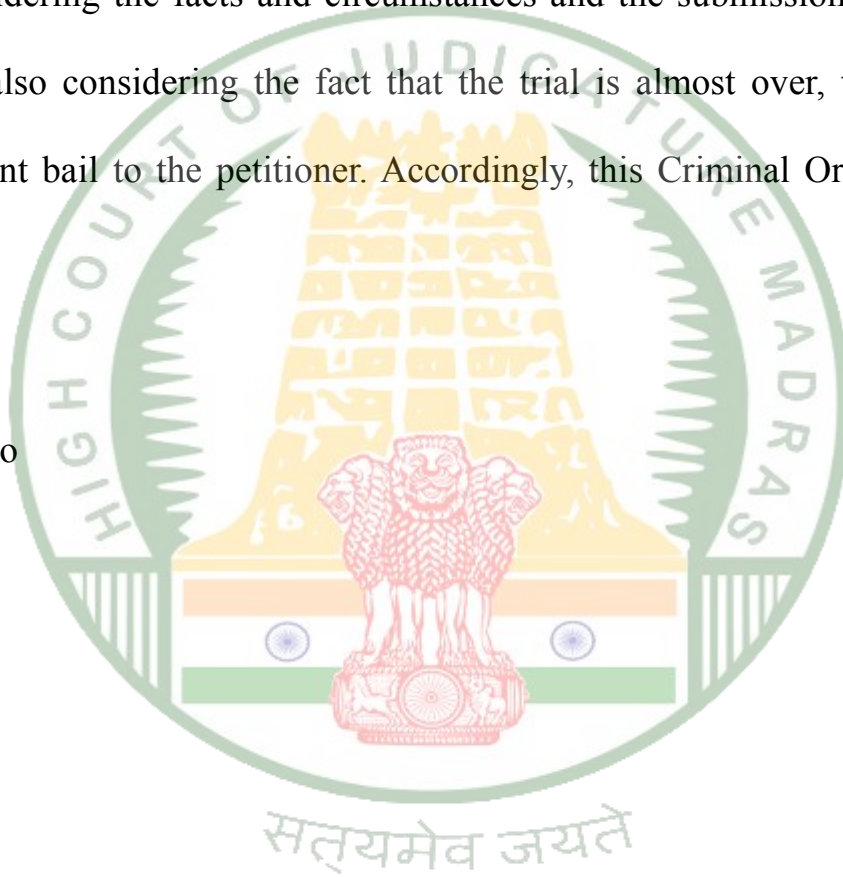
4. The learned Additional Public Prosecutor would submit that in this case the petitioner/accused was found in possession of 22 kg of Ganja, which is a commercial quantity. After following the procedure, contraband was seized and forwarded to the Court. Investigation completed, charge sheet filed and the same was taken on file in C.C.No.181 of 2018. There are five witnesses, out of which, four witnesses, viz., PW1 to PW4, were examined both in chief and cross and for PW5 cross examination was not conducted. PW5 is ready to appear before the Trial Court for cross examination immediately, when the Court starts functioning in this case. All the witnesses had categorically identified the petitioner/accused transported the Ganja, which is a commercial quantity. Further, as per Section 37 of the NDPS Act, the petitioner has to satisfy the Court that there are reasonable grounds to prove her that she is not guilty and she shall not commit any offence in future. The petitioner has failed to satisfy the said conditions laid under Section 37 of the Act. Hence, the petitioner's bail application was rejected by the Courts below. This principle has been upheld by this Court as well as the Apex Court in many number of cases. Hence, he opposed for grant of bail to the

Petitioner.

5. It is seen that the contraband involved in this case is a commercial quantity and all the witnesses have been examined and only the cross examination of PW5 is pending. Considering the facts and circumstances and the submissions of the learned counsels and also considering the fact that the trial is almost over, this Court is not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

18.06.2020

Internet: Yes/No
dna



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To

1.The Special Judge, E.C & NDPS,
Chennai.

2. The Inspector of Police,
N.I.B. & C.I.D Police,
Kancheepuram.

3. The Public Prosecutor,
High Court, Madras.

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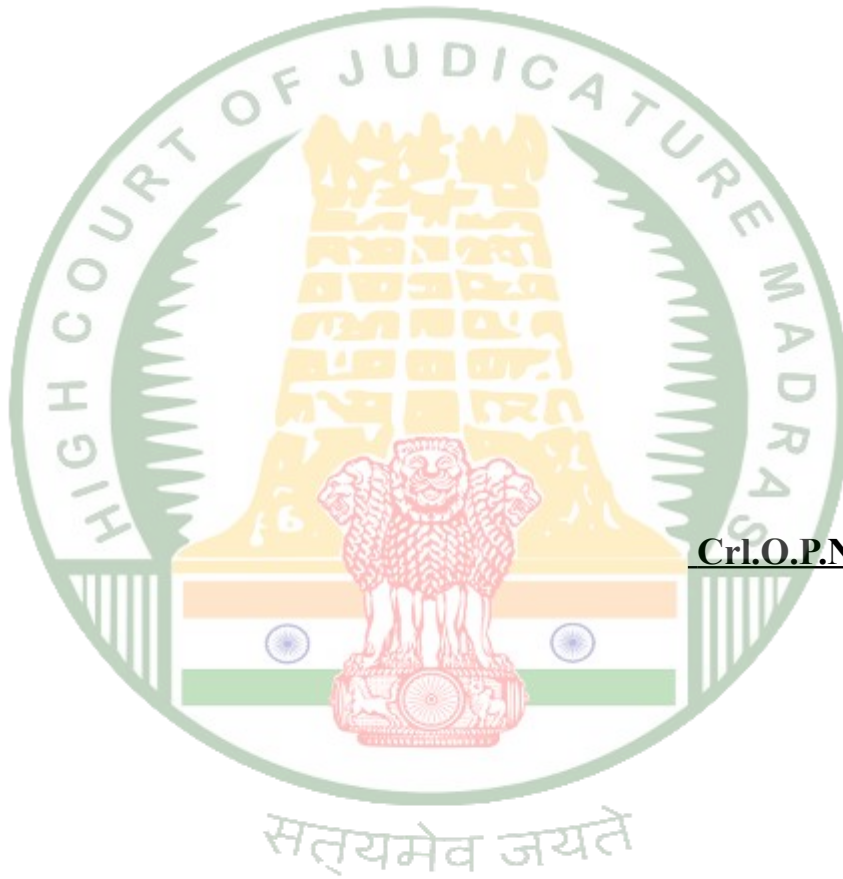
The Superintendent,
Central Prison, Puzhal, Chennai.



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M.NIRMAL KUMAR.,J.

dna



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