



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 06/02/2020
PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD) . No.1364 of 2020

Banumathi ... Petitioner/Accused No.7

Vs

State Rep.by
The Inspector of Police,
NIB CID, Ramnad District.
(Crime No.58 of 2019). ... Respondent/Complainant

For Petitioner : M/S.M.Jegadeesh Pandian, Advocate.
For Respondent : Mr.A.Robinson,
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

for Bail in Crime No.58 of 2019 on the file of the respondent police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl. Side) appearing for the respondent.

2. The petitioner is in custody since 26.12.2019 for the offences under Section 8(c) r/w. 20(b)(ii)(C), 25, 27A and 29(c) of Narcotic Drugs and Psychotropic Substances Act, in Crime No.58 of 2019, on the file of the respondent police. Hence, he seeks bail.

3. The case of the prosecution is that on 25.12.2019 at about 05.00 a.m., the respondent police received secret information and based on the same, they intercepted a moving vehicle at about 07.15 a.m., and found that the six named accused were in possession of 30 kgs of ganja. Based on their confession, the police raided the house of the petitioner and seized 20 kgs of ganja from her. All the accused were arrested and based on the confession of A1, 10 more kgs of ganja were seized from one Seenivasan at about 06.30 p.m. All the eight accused were brought to the occurrence spot and a case was registered at about 08.30 p.m.

4. The petitioner of course has to satisfy the twin test set out in Section 37 of NDPS Act. The respondent has also filed her

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lady aged about 57 years and she is not having any previous case. Therefore, there is no difficulty in rendering a finding regarding the second test laid down in Section 37 of NDPS Act in favour of the petitioner. As regards the first test, the petitioner's counsel points out that in various newspapers published on 26.12.2019, it was reported that the Superintendent of Police received a secret information and that he formed a special team and they intercepted a vehicle in Sivagami Nagar and seized 39 bags of ganja totally weighing 80 kgs. A1 to A6 were apprehended and arrested on the spot. In fact press conference was also conducted and photographs showing the Superintendent of Police inspecting the samples was also prominently published. The petitioner's counsel also produced the original newspaper report. From this one can safely infer that the local police had arrested A1 to A6 and recovered 80 kgs of ganja from them. The 80 kgs of ganja were found in 39 bags. Since the respondent police is the jurisdictional investigating agency, the respondent was thereafter directed to register an FIR and proceed further in the matter. Instead of taking over the investigation from that stage, the respondent appears to have come out with a new version. From the materials placed before me, I can safely conclude that there was no raid on the petitioner's house or any recovery of contraband weighing 20 kgs from the petitioner. *Prima facie*, it is seen that the petitioner is not likely to have committed the offence in question.

5. Since both the tests laid down in Section 37 of NDPS Act are satisfied in this case, I am inclined to enlarge the petitioner on bail with certain conditions. Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions;

(i) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the Additional District and Sessions Court, Special Court for EC and NDPS Act, Pudukottai.

(ii) the petitioner is directed to appear before the respondent police as and when required for the interrogation.

(iii) 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].

sd/-

06/02/2020

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
SPECIAL COURT FOR EC AND NDPS ACT, PUDUKKOTTAI.

2. THE INSPECTOR OF POLICE,
NIB CID, RAMNAD DISTRICT.

3. THE OFFICER INCHARGE,
SPECIAL PRISON FOR WOMEN, MADURAI.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.JEGADEESH PANDIAN, Advocate (SR-2489[I] dated
06/02/2020)

ORDER

IN

CRL OP(MD) No.1364 of 2020

Date :06/02/2020

MS/VR/SAR-2/06.02.2020/3P.6C