



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on	08.09.2020
Delivered on	15.09.2020

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . No.7911 of 2020

Tamilselvi

... Petitioner/2nd Accused

Vs

State rep.by
The Inspector of Police,
Usilampatti Town Police Station,
Usilampatti, Madurai District.
Crime No.141 of 2020.

... Respondent/Complainant

For Petitioner : Mr.K.Sathish Kumar,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Cr.No.141 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as Accused No.2 in Crime No.141 of 2020 on the file of the respondent Police for the offences punishable under Sections 8(c) r/w Section 20(b) (ii) (C) and 25 of NDPS Act, 1985, was arrested and remanded to judicial custody on 17.02.2020, and seeking bail, the present petition has been filed.

2.The case of the prosecution, in brief, is that on 17.02.2020 at about 05.00 p.m, while the Inspector of Police, Usilampatti Taluk Police Station was in the duty at Usilampatti Town Police Station, he received a secret information that two women were selling Ganja at Darrance Street, Peraiyur Road, Usilampatti. Based on the secret information, the Inspector of Police, along with other police party went for surveillance and found that the petitioner and other accused with carrying a bag and on seeing the police party, they



attempted to run away, at that time, they were surrounded with the assistance of woman constable and on enquiry, on suspicion that they are carrying Ganja in the bag. The respondent Police informed the petitioners that they were about to search them and also informed them about their right to be searched before the learned Magistrate or Gazetted Officer under the NDPS Act. The petitioner and other accused have given their consent about the search by the respondent Police. Thereafter, the respondent Police on search, the petitioner and other accused were found in possession of 2 Kgs of Ganja in a bag. On enquiry, it reveals that A1 and this petitioner are mother and daughter and doing Ganja business jointly and they procured Ganja from the State of Andrapradesh in wholesale for selling in retail and they stocked remaining Ganja in a car bearing Registration No.TN 59 AH 9384. After recording the statement of A1, they were arrested. Thereafter, a search was conducted in a car parking near petitioner's house and found 21.300 Kgs of Ganja. After completing all other formalities, the petitioner and A1 were arrested and remanded to judicial custody on the very same day. Now, seeking bail, the present petition has been filed under Section 439 of the Code of Criminal procedure.

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

4.The learned counsel appearing for the petitioner submitted that nothing was recovered from the petitioner, admittedly, the respondent police seized 2kgs of Ganja from A1. Thereafter, based on the confession of A1, 21.300 kgs of Ganja were seized from the car, which was parked in some other else. He further submitted that only based on the confession of A1, the petitioner has been falsely implicated in this case. He further submitted that the petitioner has completed her Post Graduation and her husband is working as Army Man. He further submitted that the petitioner is in jail for nearly seven months and hence she may be granted bail.

5.The learned Government Advocate (Crl. Side) appearing for the respondent Police vehemently opposed the bail application stating that A1 and the petitioner are mother and daughter and they were doing Ganja business jointly and procured the same from Andrapradesh in wholesale for selling retail in and around of Usilampatti area. On receiving secret information, the police found both of them carrying Ganja and they were found in possession of 2 kgs of Ganja. Thereafter, based on the confession of A1, 21.300 kgs of Ganja was seized in a car, which belongs to them and were parked near petitioner's house. He further submitted that all mandatory requirements were also followed by conducting search and seizure. Insofar as A1 is concerned, she is having eight previous cases of similar in nature. He further submitted that the petitioner is having one previous case of similar in nature.



6.Considering the rival submissions on either side.

7.On perusal of the materials available on records, it is seen that the petitioner is none other than the daughter of A1. Originally, the petitioner and A1 were found in possession of 2 kgs of Ganja and subsequently, on the confession of A1, the huge quantity of 21.300 Kgs of Ganja was seized in a car, belongs to them. Totally 23 kgs of Ganja, which is commercial quantity, was seized. It is also seen that the respondent Police has followed mandatory requirements at the time of conducting search and seizure. It is further stated that A1 is having eight previous cases of similar in nature and the petitioner is also having one previous case of similar in nature.

8.Considering the above facts and circumstances of the case and the fact that the petitioner is a habitual offender, and there is no reason to believe that the petitioner is not guilty of offences and if she is released on bail, she is not likely to commit any offence while on bail, I am not inclined to grant bail to the petitioner.

9.Accordingly, this criminal original petition stands dismissed.

sd/-

15/09/2020

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE INSPECTOR OF POLICE,
USILAMPATTI TOWN POLICE STATION,
USILAMPATTI, MADURAI DISTRICT.
- 2 THE SUPERINTENDENT, WOMEN CENTRAL PRISON, MADURAI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.7911 of 2020

Date :15/09/2020