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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.1236 of 2022

Sivagami

.. Petitioner

Vs.

The State rep. by
The Inspector of Police,
Shevapet Police Station,
Salem.
(Crime No.554 of 2021)

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail in Crime No.554 of 2021 Shevapet Police Station, Salem.

For Petitioner : Mr.S.Mayilnathan

For Respondent : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

The petitioner who was arrested and remanded to judicial custody on 21.11.2021 for the offences **under Sections 8(c) read with 20(b) (ii)(B) of Narcotic Drugs and Psychotropic Substances Act in Crime No.554 of 2021**, on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 21.11.2021 the respondent police got the information from informet and on the same day Salem, Gugai near Sangeeth Theater, opposite Muslim Burial Ground with in the jurisdiction of the respondent station and the complainant along with police officials raid was conducted on information. At the time A2 was riding the Two Wheeler and the petitioner was billion rider in the said vehicles and they came to the above said place and she gave a one packet kanja to A3 and noticing the respondent police persons, the petitioner and other accused tried to escape. Hence the complaint.



3. The learned Counsel for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution and she has been falsely implicated in this case. Hence, he seeks for grant of bail to the petitioner.

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4. The learned Additional Public Prosecutor raised objection stating that 5 previous cases pending against the petitioner, the petitioner seized 3 kgs of kanja. However, he vehemently opposed to grant bail to the petitioner.

5. In this case, the question is whether the quantity attracts the rigors of Section 37 of the NDPS Act; when the quantity is less than commercial, as admittedly so in this present case, the rigors of Section 37 of the NDPS Act will not attract and factors become similar to bail petitions under regular statutes.

6. Considering the above facts and the submission made by the learned counsel for the petitioner, this Court is of the opinion that the petitioner shall be directed to make a non refundable deposit of **Rs.10,000/- (Rupees Ten Thousand Only)**, to the credit of the **Advocate Clerks Association, Salem**, without prejudice to his rights and contentions. The amount so deposited shall be utilised by the Association for the welfare of the Advocate clerks.

7. It is made clear that the deposit of the amount by the petitioner to the said Association would not amount to admission of guilt. The trial Court shall deal with the case independently on merits without reference to the amount deposited at the stage of bail.

8. Further, considering the fact that co- accused has been released on bail and also investigation is completed and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

(a) Accordingly, the petitioner is ordered to be released on bail on executing his **own bond for a sum of Rs.10,000/- (Rupees ten thousand only)**, before the **Superintendent of the concerned prison**, in which the petitioner have been confined and thereafter on his release;

(b) the petitioner shall make non-refundable deposit a sum of **Rs.10,000/- (Rupees Ten Thousand Only)**, through demand draft to the **Advocate Clerks Association, Salem**, without prejudice to his defence before the trial Court and on such deposit, the petitioner shall execute **two sureties for a sum of**



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Rs.10,000/- (Rupees Ten Thousand only) each, before the learned Special Judge for EC / NDPS Act Cases, Salem, within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the petitioner shall report before the respondent police on every Monday, Wednesday and Saturday at 10.30 a.m, until further orders;

(e) the petitioner shall not commit any offences of similar nature; (f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) on breach of any of the aforesaid conditions, the learned Judicial 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];

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-
21/01/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL JUDGE FOR EC/NDPS ACT CASES,
SALEM.



2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
SHEVAPET POLICE STATION,
SALEM.

4 THE OFFICER INCHARGE
WOMENS SUB JAIL,
HASTHAMPATTI, SALEM-636 007.

5 THE ADVOCATE CLERK ASSOCIATION,
SALEM DISTRICT.

+1 CC to M/S. S.MAYILNATHAN Advocate on payment of necessary
charges SR.NO.984

CRL OP.1236/2022

Date :21/01/2022

TA-21/01/2022