



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2022

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.OP.No.11361 of 2022

P.Megavani

..Petitioner

Vs.

The State Rep by:
The Inspector of Police,
Narcotic Intelligence Bureau - CID,
Kancheepuram District.
(Crime No.31 of 2019)

..Respondent

PRAYER:Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in C.C.NO.113 of 2020 in Crime No.31 of 2019 on the file of the respondent Police.

For Petitioner : Mr.K.Balasubramaniam

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 03.02.2021 for the offence punishable under Sections 8(c) r/w 20 (b) (ii) (c), 25 and 29(1) of NDPS Act, 1985 in Crime No.31 of 2019 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that, on 19.07.2019, based on the secret information, the respondent police intercepted the Hyundai Verna Car bearing registration No.PY-02-K-7997 and found 110 kilograms of Ganja in the car and arrested A2 and A3. Further, the accused persons confessed that, under the instruction of the first accused/petitioner they have transported the above said Ganja from Andhra Pradesh to Pondichery. Later, the petitioner was arrested on 03.02.2021. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that there are three accused involved in this case, in which the petitioner is arrayed as A1 and that he was arrested and remanded to judicial custody on 03.02.2021. Even according to the case of the prosecution, the alleged contraband 110 kilograms of Ganja were



recovered from A2 and A3. The petitioner was implicated only based upon the confession statement of the co-accused and there is no iota that the petitioner transported the contraband along with other accused persons. The confession statement could not be taken into account, while impleading the accused without any material. In fact, in an other case, wherein the petitioner was involved, she was granted anticipatory bail by the Court below. Though the respondent filed the final report and had taken cognizance of the offence in the year 2020, still the trial is yet to commence. Therefore, the petitioner should not have suffered incarceration for more than 2 years.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner/first accused car bearing registration No.PY-02-K-7997 was involved in this case. Further, the petitioner instructed the co-accused to take up the contraband from Andhra Pradesh to Pondichery through the above said car. Further, that the admissibility and evidentially value of the confession recorded under Section 67 of NDPS Act, can be decided only at the stage of the trial and not at the stage of bail. Further, he submitted that the Honourable Supreme Court has rightly held that, with regard to the admissibility of confession recorded under Section 67 of NDPS Act, that it cannot be applicable at the stage of bail. Further, he submitted that the husband of the petitioner also remanded for this type of case.

5. Admittedly, the contraband were seized from the A2 and A3 only based upon the confession statement of A2 and A3 and the petitioner was implicated as an accused in this case. Though the respondent submitted the counter that on 18.07.2019, the petitioner had sent the car to transport the contraband from Andhra Pradesh to Pondichery, the car does not belong to the petitioner. Except phone calls from the petitioner to the co-accused, there is no other material to show that the petitioner was also involved in this crime. That apart, the respondent completed the investigation and filed a final report and the same was taken cognizance in C.C.No.113 of 2020 on the file of the Special Court for EC/NDPS Act cases, Chennai, which is pending for the past two years without commencing trial.

6.Considering the above facts and circumstances of the case and also that the petitioner has made out a prime facie case to satisfy the conditions contemplated under Section 37 of NDPS Act, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two blood related sureties, each for a like sum to the satisfaction of the Principal Special Court under EC & NDPS Act, Chennai, and on further conditions that:



[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

WEB COPY [b] The petitioner shall report before the respondent police daily at 10.30 a.m. and 5.30 p.m., until further orders.

[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-

28/06/2022

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

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

TO

1 THE PRINCIPAL SPECIAL COURT
UNDER EC & NDPS ACT, CHENNAI.

2 THE INSPECTOR OF POLICE,
NARCOTIC INTELLIGENCE BUREAU-CID,
KANCHEEPURAM DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN, PUZHAL.



4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.K.BALASUBRAMANIAM Advocate on payment of necessary
charges SR.No.10159

CRL OP.11361/2022

Date :28/06/2022

CSK 29/06/2022