



Crl.O.P.No.20524 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2022

CORAM

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.20524 of 2022

Jenita

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
NIB CID,
Kancheepuram.
Crime No.28 of 2021.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending trial in C.C.No.116 of 2022
on the file of the Special Judge I Additional Special Court for NDPS Act,
Chennai.

For Petitioner : Mr.N.Sudharsan

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side).



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 24.12.2021 for the offences punishable under Sections 363, 366 of IPC and Section 5(1), 5(j)(ii), 6(1) of NDPS Act in Crime No.3 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on receipt of a specific information that a woman aged 40 years was transporting Kanja, the respondent intercepted the accused and she was found carrying two bags and it was found that one bag contained 16 kgs and another bag contained 5 kgs and totally she was carrying 21 kgs of Kanja in two bags. The respondent, after completion of investigation, filed the final report in C.C.No.116 of 2022 on the file of the Special Judge I Additional Special Court for NDPS Act, Chennai.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and that she has no previous case as against her.



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He would further submit that the respondent has projected the case as if the petitioner was carrying 21 kgs of kanja. He would submit that even as per the FIR, the respondent has not stated the weight of the covers in which the contraband was kept. He would submit that if it is taken into consideration that the case of the petitioner will not come under the commercial quantity. He would also submit that the petitioner is in custody from 24.12.2021 and the investigation has been completed and the case has been taken up in C.C.No.116 of 2022. He would further submit that the petitioner hails from poor background and she was doing household works in Adambakkam and he would also submit that believing some persons from the native place she carried the bags, but suspecting that there was an nexus between the parties from the native place, the case has been registered. He would submit that the petitioner, being a woman there is no likelihood to commit any offence while on bail and that there are also reasonable grounds for believing that she is not guilty of such offence.

4. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner is a housemaid in



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Adambakkam and she hails from Theni and on suspicion, she was intercepted and 21 kgs of Kanja was recovered from her. He would further submit that the investigation has been completed and the petitioner is in custody from 24.12.2021 and the case is likely to be taken up for trial in C.C.No.116 of 2022. However, he would oppose for grant of bail.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the materials available on record including the final report.

6.It is stated that the weight of the covers, in which the contraband was packed, was not stated and that the quantity is only 21 kg. Further the petitioner is in custody from 24.12.2021 and the case is taken up for trial in C.C.No.116 of 2022.

7.Taking into consideration that the petitioner is a lady and she was doing house hold works and she has no previous case against her that there is no likelihood of her involving in offences and the period of incarceration,



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this Court is prima facie opinion that the petitioner has satisfied the ingredients of Section 37 of NDPS Act.

8. Accordingly, the petitioner is ordered to be released on bail on her executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five thousand only)** with **two sureties (out of which, one surety should be a blood related surety)** each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Kancheepuram 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;

[b] the petitioner shall report before the learned Special Judge I Additional Special Court for NDPS Act, Chennai on all working days at 10.30 a.m and report before the respondent Police every Saturday and Sunday at 10.30 a.m., until further orders.

[c] the petitioner shall not abscond during trial;

[d] the petitioner shall not tamper with evidence or witness during trial;



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[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 abscond, a fresh FIR can be registered under Section 229A IPC.

26.09.2022

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To

1. The Special Judge I Additional Special Court for NDPS Act, Chennai.
2. The Inspector of Police,
NIB CID,
Kancheepuram.
3. The Central Prison for Women, Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.

This matter is posted today before this Court under the caption 'For Being Mentioned' at the instance of the learned counsel appearing for the petitioner.

2. The learned counsel appearing for the petitioner would submit that this Court, by an order dated 26.09.2022, has granted bail to the petitioner in CrI.O.P.No.20524 of 2022. However in the order copy, the offences has been wrongly mentioned as **363, 366 of IPC and Section 5(1), 5(j)(ii), 6(1) of NDPS Act** instead of **8(c) read with 20(b)(ii)(C) of NDPS Act 1985** and the Crime Number has been wrongly mentioned as **Crime No.3 of 2022** instead of **Crime No.28 of 2021**. Hence, he prayed for suitable directions.

3. Considering the submission made by the learned counsel appearing for the petitioner, Registry is directed to carry out the necessary correction and issue order copy afresh.

10.10.2022

mpl

Note: Issue order copy by today (10.10.2022)

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