



WEB COPY



Crl.OP.No.21110 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2022

CORAM

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

Crl.OP.No.21110 of 2022

Ayisha

...Petitioner

Vs.

The State

Rep by Inspector of Police,
C-2 Elephant gate Police Station,
Chennai.

..Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.210/2022 on the file of the respondent police.

For Petitioner : Mr.N.Nishar Ahamed

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 22.04.2022 for the offences punishable under Sections 8(c) read with 20(b)(ii)(C), 25 and 29(1) of the NDPS Act, 1985 in Crime No.210 of 2022 on the file of the respondent police, seeks bail.



CrI.OP.No.21110 of 2022

WEB COPY

2. The case of the prosecution is that on 22.04.2022 at about 10.10 hours, the *de-facto* complainant/Sub-Inspector of Police, attached to C-2 Elephant Police Station, Chennai, received a secret information and entered the same in the general diary, then got permission from the Inspector of Police, the Sub Inspector police along with the police party went to walltax road, NSC Bose Road Junction and on vehicle search they found a person coming in four wheeler blue colour swift car bearing registration No. TN 04 AU 5320. The police party intercepted and interrogated them (A1 & A2) and on enquiry they revealed that A1 & A2 purchased dry ganja weighing 25.437 Kgs and ganja oil 1.045 liters from Andhra for sale. Further, the respondent police arrested the accused and remanded them to judicial custody. Then 2 packets of dry ganja each weighing about 50 grams were taken and sent for chemical examination. Based on the above, a case was registered on the file of the C2, Elephant Gate Police Station, Chennai in Crime No.210 of 2022 for the offences under Sections 8(c), 20(b),(ii), (C), 25 and 29(1) of the NDPS Act 1985 against the accused persons (A1 to A4) on 22.04.2022 at about 16.00 hours.



CrI.OP.No.21110 of 2022

WEB COPY

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and on 22.04.2022, while she was travelling along with her husband in the car, the car was intercepted. The respondent police questioned the petitioner's husband and thereafter they have seized the contraband from the car. The respondent has also recorded the confession statement from the A1. From A1, the contraband were recovered. On this strength, the respondent has also implicated the petitioner as if the petitioner had knowledge about the transport of the contraband. He would further submit that the petitioner being a wife accompanied her husband and other than that, she was not having any knowledge about the contraband and even as per the First Information Report, the respondent has informed about the rights under Section 50 of NDPS Act to A1 and no such information was given to the petitioner, thereby the respondent had violated Section 50 of the NDPS Act. The respondent police has also not recorded any confession from the petitioner and other than being the wife of A1, she has nothing to do with the offence. The petitioner is under custody from 22.04.2022 for the past 151 days. He would further submit that, the fact remains that on the date



Crl.OP.No.21110 of 2022

of arrest, the petitioner was pregnant and during the course of enquiry, the pregnancy also got aborted. She got a 2 years old female child, which is being now taken care by the relatives of the petitioner. He would further submit that there is no previous case as against the petitioner and there is no chance of the petitioner likely to commit any offence while on bail and he seeks for grant of bail to the petitioner.

4. The respondent has filed a detailed counter.

5. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner and her husband were travelling in the car and on information, the police party intercepted them and on search, 25.437 Kgs of Ganja and 1.045 liters of ganja oil were recovered from them. However, fairly conceded that information about rights under Section 50 of NDPS Act has been exercised only in respect of the A1 and as far as the petitioner is concerned, she has not been informed about her rights.

6. Heard the learned counsels. Perused the counter filed by the



CrI.OP.No.21110 of 2022

learned Government Advocate (CrI.side) appearing for the respondent.

Taking into consideration the facts and the submissions, this Court is convinced that the petitioner has made out a *prima-facie* case to satisfy the ingredients of Section 37 of NDPS Act.

7. Considering the above facts and circumstances that the petitioner is under custody from 22.04.2022, this Court is inclined to grant bail to the petitioner. 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**, each for a like sum to the satisfaction of **learned VIII MM, GT Court, 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.

[b] the petitioner shall report before the Principal Special Court Under EC & NDPS Act, Chennai on all working days at 10.30 a.m., until further orders.



CrI.OP.No.21110 of 2022

WEB COPY

[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.

20.09.2022

mpl



WEB COPY



Crl.OP.No.21110 of 2022

A.D.JAGADISH CHANDIRA, J.

mpl

To

- 1.The VIII M M, GT Court,
Chennai.
- 2.The Inspector of Police,
C-2 Elephant gate Police Station,
Chennai.
- 3.Puzhal Prison, Chennai.
- 4.The Public Prosecutor,
High Court of Madras

Crl.O.P.No.21110 of 2022

20.09.2022