



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Reserved on : 02.03.2022

Delivered on : 10.03.2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.3037 of 2022

Priyadharshini

... Petitioner/Accused No.6

Vs.

State represented by its
The Inspector of Police,
Thirugokarnam Police Station,
Pudukkottai District.
(Crime No.732 of 2021).

... Respondent/Complainant

For Petitioner : Mr.M.Jegadeesh Pandian,
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor.

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

PRAYER :-

For Bail in Crime No.732 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A.6, who was arrested and remanded to judicial custody on 09.12.2021 for the offences punishable under Sections 8 (c) r/w 20(b)(ii)(C), 25 and 29(1) of Narcotic Drugs and Psychotropic Substance Act, in Crime No.732 of 2021, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 30.10.2021 at about 13.00 hrs, on receiving a secret information, the respondent police has taken an inspection at Bhuvaneswari Marriage Hall, Kovilpatti, near graveyard, they found two persons (one male and one female) in a Honda Activa vehicle with the yellow gunny bag and on seeing the police party, the male person fled away from the occurrence and the female was caught hold by the police and she was arrested and 2 kgs of Ganja was recovered from her and that based on her confession, the respondent went to her house and recovered 4 bags containing 138 kgs of Ganja. Hence, the complaint.



3.The case of the petitioner is that on the basis of the confession statement of the first accused Janaki, who was alone arrested at first, the case has been registered as against 6 named persons, that the petitioner's name does not find place, that subsequently in order to implicate the petitioner's husband, the respondent had taken the first accused Janaki into custody and recorded the second confession statement and based on the same, they have implicated the petitioner's husband, that thereafter, the fifth accused Selvi was arrested on 01.11.2021 and subsequently the third accused Vasanthi/mother-in-law of the petitioner was arrested on 09.12.2021 and on the basis of the confession alleged to have taken from the said Vasanthi/third accused, the petitioner was added as if she along with her husband and mother-in-law had parted money and that the petitioner was arrested on 09.12.2021 in her house and is still in judicial custody.

4.The learned counsel for the petitioner would submit that the marriage between the petitioner and Vinoth Kumar/son of the third accused was solemnized on 01.09.2021, that the prosecution hatched the conspiracy and registered the case on 30.10.2021, that except the confession statement, there is no other material available to substantiate the case as against the petitioner and that the petitioner is innocent and she has been falsely implicated in the above case.

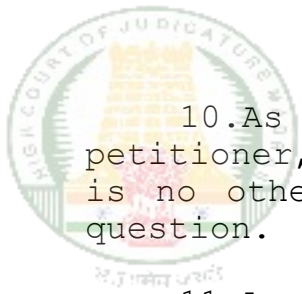
5.The respondent has filed a counter affidavit raising objections to enlarge the petitioner on bail.

6.The learned Additional Public Prosecutor would submit that the contraband seized is of commercial quantity. He would further submit that even though there is no previous case as against the petitioner, investigation reveals that she frequently involved in the similar offence along with other accused.

7.As rightly contended by the learned counsel for the petitioner, admittedly, there is no recovery from the petitioner and she was implicated only on the basis of the confession alleged to have taken from the third accused, who is none other than her mother-in-law.

8.As rightly contended by the learned counsel for the petitioner, though the confession statement was allegedly taken from the first accused and some other accused earlier, the petitioner was not implicated and subsequently in the confession given by the third accused, she was implicated.

9.No doubt, the petitioner's husband and her mother-in-law are the accused in the above case. Just because, the family members of the petitioner are involved in the above commission of offence, it cannot be presumed that the petitioner was also involved, in the absence of any other material to link the petitioner with the alleged offence.



10.As rightly contended by the learned counsel for the petitioner, except the confession statement of the co-accused, there is no other material to connect the petitioner with the crime in question.

11.As already pointed out, the respondent, in the counter affidavit itself, has specifically admitted that the petitioner is not having any previous cases under the NDPS Act.

12.Considering the above facts and circumstances of the case and also the fact that the petitioner is not having any previous cases under the NDPS Act, this Court is satisfied that there are reasonable grounds for believing that the petitioner is not guilty of such offence and that she is not likely to commit any such offence, after coming out on bail, as contemplated under Section 37 of NDPS Act.

13.In view of the above, this Court is inclined to grant bail to the petitioner subject to the following conditions:

14.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 the learned Additional District and Sessions Judge, Special Court for EC and NDPS Act Cases, Pudukkottai.

(i)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(ii)the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders;

(iii)the petitioner shall not tamper with evidence or witness;

(iv)the petitioner shall not abscond during trial;

(v)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]***.

(vi)If the accused / petitioner thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

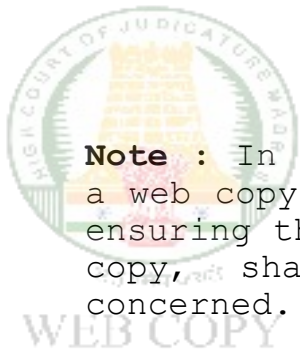
sd/-

10/03/2022

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14/03/2022

Sub-Assistant Registrar (C.S-IV)
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 ADDITIONAL DISTRICT AND SESSIONS JUDGE,
SPECIAL COURT FOR EC AND NDPS ACT CASES,
PUDUKKOTTAI.
2. THE OFFICER-INCHARGE,
SPECIAL PRISON FOR WOMEN, TRICHY.
3. THE INSPECTOR OF POLICE,
THIRUGOKARNAM POLICE STATION,
PUDUKKOTTAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.3037 of 2022
Date :10/03/2022

USK/VR/SAR-IV/14.03.2022/4P/5C