



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 13/04/2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.4612 of 2022

Rajamani @ Rani

... Petitioner/Accused No.3

Vs

The State rep.by,
The Inspector of Police,
Karimedu Police Station,
Madurai District.
Crime No.1466 of 2020.

... Respondent/Complainant

For Petitioner : Mr.V.KATHIRVELU, Senior Counsel for
MR.K.Prabhu, Advocate.

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

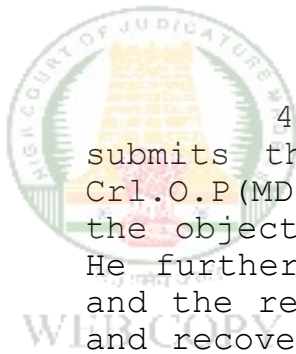
PRAYER :-For Bail in Crime No.1466 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

2.The petitioner/A3, who was arrested on 06.10.2010, for the offence punishable under Sections 8(c), 20(b), (ii) (c), 25 & 29(1) of NDPS Act, in Crime No.1466 of 2020, on the file of the respondent police, seeks bail.

3.The case of the prosecution is that on secret information, the respondent police intercepted the two wheelers bearing Registration Nos.TN 58 AC 4767, TN 58 BC 9390 and TN 58 AP 6669 ridden by the accused persons in Arappalayam, Madurai, they were found in possession of two gunny bags consisting of 11 kgs of ganja each, weighing 22 kgs totally. Hence, this complaint.



4.The learned senior counsel appearing for the petitioner submits that the earlier application filed by the petitioner in Crl.O.P(MD) No.10248 of 2021 was dismissed by this Court, based on the objections raised by the learned Additional Public Prosecutor. He further submits that there is no recovery from this petitioner and the respondent police arrested the first accused one Pandiammal and recovered the contraband from her. However, this petitioner and other accused were roped in this case. He further submits that there is no bad antecedents as against this petitioner. The petitioner is a housewife. The prosecution has projected as if the petitioner is the daughter of the first accused, Pandiammal and she was present in the place of occurrence and on that score, earlier application filed by the petitioner was rejected. It is also reported that final report has been filed and taken on file in CC No.16 of 2021, by the II Additional Special Sessions Judge for EC and NDPS Act cases, Madurai and the petitioner was also furnished with the copies of documents, from which, it could be seen that there is only one Mahazar has been prepared in this case and recovery of contraband is only from the first accused alone and there is no recovery from this petitioner. As on date, the only incriminating material from the final report is the confession of the first accused alone and there is no other material as against this petitioner.

5.The learned Additional Public Prosecutor appearing for the respondent on instructions submits that the petitioner is the daughter of A1 and this petitioner is also accompanied with the other accused at the time of occurrence. The *Modus operandi*, according to the learned Additional Public Prosecutor is that the petitioner, A2 and A5 along with other accused have taken ganja in three motor cycles and A4 has escorted them. The respondent police intercepted the vehicles, on information and recovered 22 kgs of ganja from all the accused. However, a single Mahazar has been prepared. But, all the accused including the petitioner were present at the place of occurrence.

6.This Court considered the rival submissions made and perused the materials placed on record.

7.As per the case of the prosecution, ganja was transported by the accused persons in three different motor cycles. According to the prosecution case, 11 kgs of ganja each in two gunny bags recovered from the first accused. The earlier application was opposed by the respondent police that this petitioner is the daughter of the first accused. Since the entire recovery was made from the first accused and this petitioner, being the daughter of the first accused, this Court rejected the earlier application.

8.The learned senior counsel appearing for the petitioner has projected that this petitioner is not the daughter of the first accused and also established his case that no recovery has been made from this petitioner and the entire recovery is only from the first



9.Considering the change in circumstances that the entire contraband has been recovered from the first accused alone, even according to the prosecution case and there is no recovery from the petitioner that there is no material other than the confession of the co-accused, the period of incarceration, the antecedents of the petitioner and also taking into consideration the fact that final report has already been filed and was taken on file in CC No.16 of 2021, this Court is inclined to grant bail to the petitioner.

10.Accordingly, this Criminal Original Petition is allowed and 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) each with two sureties each for a like sum to the satisfaction of the learned Principal Special Court for EC and NDPS Act Cases, Madurai 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 respondent police daily at 10.30 am, until further orders.

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

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

[e]On breach of any of the aforesaid conditions, the learned Judge/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 Judge/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.

sd/-

13/04/2022

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13/04/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1 THE PRINCIPAL SPECIAL COURT
FOR EC & NDPS ACT CASES,
MADURAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
KARIMEDU POLICE STATION, MADURAI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to Mr.K.PRABHU, Advocate (SR-3353[I] dated 13/04/2022)

ORDER

IN

CRL OP(MD) No.4612 of 2022

Date :13/04/2022

VRN

MK/VR/SAR.I/13.04.2022/4P/6C