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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 16/08/2022

PRESENT

The Hon'ble Mr.Justice **G.ILANGOVAN**

Cr1.OP(MD)No.11888 of 2022

R.Vasantha : Petitioner/A2

Vs.

State represented by
Inspector of Police,
Nagamalai Pudukottai P.S.
Madurai District.
(Crime No.88 of 2022)

: Respondent/Complainant

For Petitioner : Mr.Na.Manimaran

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

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

PRAYER :-C-32B.For Bail in Crime No.88 of 2022 on the
file of the Respondent Police.

ORDER : The Court made the following order:-



The petitioner, who is arrayed as A2 was arrested, on 23/05/2020 and remanded to judicial custody for the alleged offences punishable under sections 8(c) r/w 20(b) (ii)(C), 25 and 29(1) of NDPS Act, in Crime No.88 of 2022, seeks bail.

2.The case of the prosecution is that based upon the secrete information received from the police informer, on 15/03/2022 at about 05.15 pm, the de-facto complainant along with the police party went to the house of one Rani. At that time, on seeing the police party, the petitioner along with the other accused attempted to run away. When the police nabbed them, they were found to be in separate possession of 10 kgs of ganja and further process was undertaken as per the procedure. On that basis, the case was registered and the petitioner was arrested and remanded to custody and ever-since, she is in custody.

3.Seeking bail, this petitioner, who is arrayed as A2 filed this petition.

4.Heard both sides.



5.From the narration of the FIR, it is seen that the petitioner was arrested on the spot itself along with contraband. Now the ground on which, the petitioner insisted is that 10 kgs of ganja has been recovered from her and another 12 kgs was recovered from A1. So according to the petitioner, the question of joint possession for the purpose of consolidating the contraband to bring it under the commercial quantity should not be permitted.

6.But reading of the FIR shows that much effort was made by the accused persons to prevent the police team to make a search and also seen, but however, both the accused persons have been arrested on the spot itself. From where they purchased the contraband is a matter for investigation.

7.The learned counsel appearing for the petitioner/A2 would rely upon the order that has been passed by this court in CrI.OP No.9448 of 2022, dated 28/04/2022 for the purpose of argument that the consolidation of the contraband for the purpose of bringing the same under the commercial quantity is not permissible. Separate Mahazar was prepared for the recovery from each of the accused persons.



8.The very same view has also been expressed by the coordinate Bench of this court in CrI.OP(MD)No.11441 of 2022, dated 27/07/2022.

9.When we apply the above said principle to the facts of this case, as seen from the FIR, both the accused were found in possession of separate bags and it is not a case of the prosecution to the effect that both the accused persons joined with some other persons. They were separated. Even as per the statement of the co-accused, it appears that they purchased the contraband independently from unknown persons. So, it is not a commercial quantity.

10.So considering the above facts and circumstances of the case and also considering the period of incarceration of the petitioner, this court is inclined to grant bail to the petitioner with certain conditions. Accordingly, the petitioner is ordered to be released on bail on her executing a bond for a sum of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Principal Special Court for EC & NDPS Act Cases, Madurai



and on further condition that the petitioner shall report before the concerned trial court daily at 10.30 am until further orders.

16/08/2022

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Central Prison,
Madurai.



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Cr1.OP (MD) No.11888 of 2022

16/08/2022



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