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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14/12/2022

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.21309 of 2022

Maria Alex Britto

... Petitioner/Accused No.2

Vs

State Rep.by
The Inspector of Police,
Thazhamuthunagar Police Station,
Thoothukudi District.
Crime No.129 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Subash Babu M, Advocate.
For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor

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

PRAYER :-

To enlarge the Petitioner on bail in CC.No.378 of 2022 on the file of the Principal Special Court for EC and NDPS Act Cases, Madurai District.

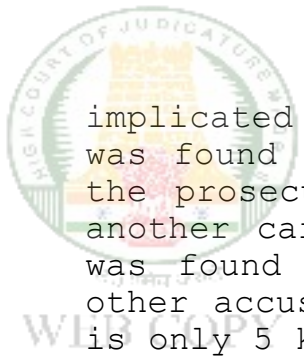
ORDER : The Court made the following order :-

The petitioner/A2 who was arrested and remanded to judicial custody on 01.04.2022 for the offence punishable under Section 8(c) r/w.20(b)(ii)(c) of NDPS Act in Crime No.129 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on secret information the defacto complainant along with his team of police officials were on vehicle check up on 31.03.2022 at about 9.00 a.m., they stopped a two wheeler bearing Reg.No.TN 75 M 9781. At that time on suspicion they intercepted and searched another four wheeler bearing Reg. No.TN 055 AS 0006. On search four persons were found in possession of contraband ranging from 5 to 7 kgs. Based on the same, the present case came to be registered.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent person and he has been falsely

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implicated in this case. He would further submit that the petitioner was found in possession of only 5kgs of ganja. It is the case of the prosecution that while the respondent was conducting search another car came there and in that car nearly 5 to 7 kgs of ganja was found and there is no nexus between the petitioner and the other accused. Further the contraband recovered from the petitioner is only 5 kgs which is not a commercial quantity. Further he would submit that main accused/Thulasi(A1) has been arrested and released on bail by this Court in Crl.O.P(MD) No.10251 of 2022 dated 17.08.2022. He would also submit that the petitioner is in jail from 01.04.2022 and he is also ready to abide by any stringent condition imposed by this Court, hence, he seeks for bail.

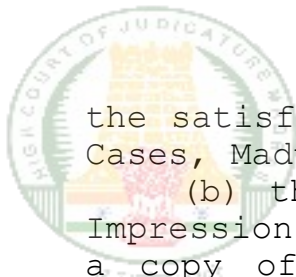
4.The learned Additional Public Prosecutor appearing for the respondent would submit that petitioner along with other accused were found in possession of 24 kgs of ganja, which is a commercial quantity. Further the petitioner was first arrested and from him 5kgs of ganja was recovered and the other accused came in a car were later arrested with 19kgs of ganja which was also recovered. He would submit that main accused/Thulasi(A1) has been arrested and released on bail by this Court in Crl.O.P(MD) No.10251 of 2022 dated 17.08.2022. He would also submit that investigation has been completed and final report has been filed before the Principal Special Court for EC and NDPS Act Cases, Madurai and the same has been taken cognizance in C.C. No.378 of 2022. He would further submit that the accused have not engaged counsel, thereby there is a delay in the progress of trial, hence he opposed to grant bail to the petitioner.

5.Heard. Perused the materials available on record including the First Information Report.

6.In this case the petitioner was arrested with 5kg of ganja and subsequently from another four wheeler 19kgs of ganja was recovered. It is seen from the records that A1 who is main accused from whom 7kgs of ganja was recovered was arrested and released on bail by this Court and in the said order this Court also found that all the persons were engaged in separate purchase and selling of ganja

7.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration and also the fact that no previous case is pending against the petitioner, this Court is of the opinion that rigor of section 37 of the NDPS Act will not be applicable to this petitioner, hence this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute 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 Principal Special Court for EC and NDPS Act Cases, Madurai, and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

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

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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];

(h) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

14/12/2022

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14/12/2022

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

TO

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

2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE, THAZHAMUTHUNAGAR POLICE STATION,
THOOTHUKUDI DISTRICT.

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

+1 CC to M/s.SUBASH BABU M, Advocate (SR-14839[I] dated
14/12/2022)

ORDER

IN

CRL OP(MD) No.21309 of 2022

Date :14/12/2022

AAV

<https://www.mca.gov.in> (14.12.2022) 3P-6C