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Crl.O.P.No.1893 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.02.2023

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

Crl.O.P.No.1893 of 2023

Tamilselvi,
W/o.Muthiah

.. Petitioner

Vs.

State represented by
The Inspector of Police,
Tirupur North Police Station,
Tirupur City.
(Crime No.1528 of 2019)

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in C.C.No.38 of 2020 on the file of learned Principal NDPS Court, Coimbatore in Crime No.1528 of 2019 on the file of respondent police.

For Petitioner : Mr.S.Jayaprakash

For Respondent : Mr.S.Vinoth Kumar
Govt. Advocate (Crl. Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 31.12.2019 for the alleged offence under Sections 8(c) r/w 20(b)(ii)(C) and 25 of Narcotic Drugs and Psychotropic Substances Act and later altered to Sections 8(c) r/w 20(b)(ii)(C), 25 and 29(1) of the NDPS Act in Crime No. 1528 of 2019 on the file of the respondent police, pending trial in C.C.No.38 of 2020 on the file of learned Principal NDPS Court, Coimbatore, seeks bail.

2. The case of the prosecution is that on the date of occurrence, on a secret information about transportation of ganja by two wheeler at Uthukuli road, when the respondent police mounted surveillance at Anaikadu junction on Uthukuli Road in Tirupur at about 13.45 hours, they found transportation of 51 kgs. of contraband in two bikes, thereby the petitioner and other accused were arrested and they were found in possession of 25 kgs. of ganja, which is a commercial quantity and the same was seized by them. Hence, the complaint.



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3. The learned counsel appearing for petitioner would submit that this is the fourth petition seeking for bail. She is a woman, aged about 44 years and she has been falsely implicated in this case as if she is found in possession of 25 kgs. of ganja. She would submit that the petitioner was suffered with illness of uterus problem and also severely affected chronic abnormal uterine bleeding and she was treated in Central Prison Dispensary, however, she has not recovered yet despite treatment and to that effect, he produced a medical report. He would submit that she is also facing issues through lack of sanitary and medical necessities in the prison. He would submit that she is in judicial custody for more than 3 years and the trial was also not in progress. Hence, due to medical condition, she prayed to grant bail to the petitioner.

4. The learned Special Government Pleader appearing for respondent has raised strong objection stating that totally 50 kgs of ganja was involved, which is more than commercial quantity and at the time of arrest, 25 kgs. of ganja recovered from her, which is a commercial quantity. He would submit that she along with her family members



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involved in the transportation of ganja. Furthermore, the charge sheet was filed and totally, four witnesses were examined and trial is in part-heard stage. He would submit that if she is released on bail, she would tamper the witness and hamper the investigation. But, the learned counsel for petitioner submitted that there is no possibility of tampering the evidence and hampering the investigation.

5. On perusal of medical report issued by Assistant Surgeon, Special Prison for Women, Coimbatore, it would reveals that the petitioner has suffered with tyroid and other health problems and she is also suffered with heavy menstrual bleeding, for which gynecologist opinion was obtained and endometrial sampling was taken. Considering the above facts and circumstances and considering the illness of the petitioner, and also the fact that the investigation is almost completed, and considering the period of incarceration for more than 3 years undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.



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6. Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each, **in which one surety must be a blood surety**, for a like sum to the satisfaction of the **learned Addl. District Judge, Special Court for EC Act Cases, Coimbatore**, and on further conditions that:

(a) 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;

(b) the petitioner shall report before the respondent police on every Tuesday and Saturday at 10.30 a.m. for the period of four months and she shall also appear before the trial court for every hearing regularly without fail;

(c) the petitioner shall not leave India without consent of court concerned.

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

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



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(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 absconds, a fresh FIR can be registered under Section 229A IPC.

13.02.2023

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To

1. The Addl. District Judge, Special Court for EC Act Cases, Coimbatore.
2. Inspector of Police, Tirupur North Police Station, Tirupur City.
3. The Superintendent of Prison, Special Prison for Women, Coimbatore.
4. The Public Prosecutor,
High Court of Madras, Chennai.



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T.V. THAMILSELVI, J.

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