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Crl.O.P.No.8798 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2023

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.8798 of 2023

Banumathi @ Usha

... Petitioner

Vs.

State rep. by
The Inspector of Police
D-2 Anna Salai Police Station
Chennai.

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to grant bail to the petitioner pending investigation in Crime No.54
of 2023, on the file of the respondent herein.

For Petitioner : Mr.T.S.Srivasan

For Respondent : Mr. C.E.Pratap
Government Advocate (Crl. Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 05.03.2023, for the offences punishable under Section 8(c), r/w 20(b) (ii)
(B), (25) & 29(1) of NDPS Act, in Crime No.54 of 2023 on the file of the
respondent police, seeks bail.



2. The case of the prosecution is that the petitioner along with other accused was found in possession of 9.165 kgs. of ganja. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and a false case has been foisted against her and that the petitioner has been in judicial custody from 05.03.2023. However, on instructions he would submit that without prejudice to her rights and defence, the petitioner is ready and willing to deposit a sum of Rs.25,000/- to any charitable institution as may be directed by this Court and hence, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (Criminal Side) for the respondent vehemently opposed to grant bail to the petitioner stating that the the petitioner along with other accused was found in possession of 9.165 kgs. of ganja and that the petitioner has got 3 previous cases.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) and perused the materials available on record including the FIR and the counter filed by the respondent police



6. Considering the facts and circumstances of the case and the submissions made by the learned counsel on either side and the period of incarceration undergone by the petitioner, this Court is inclined to grant of bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on condition to make a non-refundable deposit of Rs.25,000/- (Rupees Twenty Five Thousand only) by way of **RTGS/NEFT to the credit of "Charu Home for Aged, Account Number : 2771201000291, IFSC Code : CNRB0002771, Canara Bank, Mahila Br., T.Nagar Chennai - 17"**, without prejudice to his rights and contentions before the trial Court, on such deposit and production of proof, the petitioner is ordered to be released on bail on his 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 Judge, Principal Special Court under E.C. And NDPS Act Cases, Chennai**, 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;



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[b] the petitioner shall report before the respondent police everyday at 10.30 a.m. until further orders;

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

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

[e] 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]*;

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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To

1. The Principal Special Judge,
Principal Special Court under E.C and NDPS Act cases,
Chennai.
2. The Inspector of Police
D-2 Anna Salai Police Station
Chennai.
3. The Superintendent,
Central Prison for women,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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