



CRL OP(MD). No.14047 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 17/08/2023

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD). No.14047 of 2023

Rani,

... Petitioner/ Accused No.1

Vs

State Rep.by
The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai District.
(Crime No.88/2022)..

... Respondent/ Complainant

For Petitioner : M/s. Ezhilarasu.C, Advocate.

For Respondent : Mr.S.Ravi,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.88 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/ Accused No.1 herein, who was arrested on 15.03.2022 for the alleged offence under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act and Sections 353 and 506(i) of IPC, in Crime No.88 of 2022, on the file of the respondent police, seeks

bail

<https://www.mhc.tn.gov.in/judis>



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2.The case of the prosecution in brief:

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On secret information, the defacto complainant along with team of police officers, went to Keelamathur Valayar Street. When they were on surveillance near the accused person namely Rani's house, the police informer identified three persons, two women and one male. On seeing the police party, the male person fled away from that place. Two ladies were available. On enquiry, they revealed their name as Rani and Vasantha and also the name of the absconding accused as Rathinam, husband of Vasantha. On suspicious, search was made, they were found in possession of 12 Kgs. of Ganja, that was recovered from the above said Rani. Another bag containing 10 kgs. was recovered from accused Vasantha. Both were arrested on the spot. Samplings was taken as per the procedure, case was registered and both were remanded to judicial custody. Ever since from the date of arrest, they are in custody.

3. Seeking bail, the above said Rani filed this petition on the ground that for more than a year, she is in custody. The ganja that has been recovered from this petitioner is not commercial quantity. So according to the counsel for the petitioner, both were found in possession of separate quantities of ganja, even as per the case of the prosecution. So there is no requirement to satisfy Section 37 of the NDPS Act. The earlier bail application filed by her came to be dismissed on erroneous



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appreciation of facts. The petitioner also relied upon the order that has been passed by this Court in CrI.O.P.(MD).No.11888 of 2022, in respect of other accused Vasantha. No doubt, that this Court has expressed the above said view in CrI.O.P. (MD).No.11888 of 2022 that separate possession has been alleged by the prosecution.

4.But, the learned Additional Public Prosecutor would bring another aspect to the notice of this Court that the petitioner is involved in 11 previous cases, which are similar in nature. In one case, she was convicted and sentenced by the trial Court. On that ground only, the earlier application was dismissed by this Court, by the order, dated 10.04.2023.

5.The learned Additional Public Prosecutor, would also rely upon the judgment of this Court in the case of Mohamed Ali and Another Vs. The State rep. by the Inspector of Police, District Crime Branch Police Station, Kanniyakumari District and another reported in 2017-1-L.W.(CrI.) 842, for the purpose of argument that if the contraband has been recovered from several persons in the same course of transaction, it must construed only as joint possession and not separate possession.

6.But, as I mentioned in the order passed by this Court in earlier application filed by the co-accused Vasanthi, from whom the petitioner purchased the contraband is a matter for investigation. If it is found that all the three persons purchased contraband from single person jointly and thereafter separated, then joint



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possession can be construed. Now in the final report it has not been stated as to from whom the above said contraband has been purchased by all the three accused persons. So in the above said line of the final report even if we take that the contraband that has been seized or recovered from this petitioner can be construed only as individual possession, considering the antecedents of the petitioner, this Court is not inclined to grant bail, since if the bail is granted to her, there is no guarantee that she will not commit similar offence while on bail.

7.However, considering the fact that the petitioner is in custody, ever since from the date of arrest, there shall be a direction to the trial Court to split up the case in respect of regularly appearing accused persons in this case, proceed with the trial and complete the same within a period of five months from the date of receipt of a copy of this order.

8.With the above said directions, this criminal original petition stands dismissed.

sd/-
17/08/2023

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/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

- 1 THE SESSIONS JUDGE,
SPECIAL COURT FOR EC & NDPS ACT CASES,
MADURAI.
- 2 THE OFFICER INCHARGE
SPECIAL PRISON FOR WOMEN, MADURAI.
- 3 THE INSPECTOR OF POLICE
NAGAMALAI PUDUKOTTAI POLICE STATION,
MADURAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

- 1 THE REGISTRAR (JUDICIAL)
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
- 2 THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN

CRL OP(MD) No.14047 of 2023

Date :17/08/2023

PKP/JGB/SAR- /07.09.2023/ 5P/7 C

Madurai Bench of Madras High Court is issuing certified
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