



W.P.(MD)No.27999 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2023

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THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.27999 of 2022

and

W.M.P(MD)Nos.22088 and 22089 of 2022

Mokkaithai

... Petitioner

Vs.

1.The Superintendent of Police,
Madurai District,
Madurai.

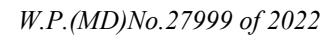
2.The Inspector of Police,
Thirumangalam Taluk Police Station,
Madurai District.

3.The Inspector of Police,
Sindhupatti Police Station,
Madurai District.

4.The Branch Manager,
Bank of India,
Sindhupatti Branch,
Madurai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to



For Petitioner : Mr.M.Ramu,

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor,
for R1 to R3.

: Mr.C.Karthik, for R4.

This Writ Petition has been filed seeking a Writ of Certiorarified Mandamus, to set aside the impugned proceedings in C.No.01/E4 PS/Ins-TK/2022, dated 27.05.2022 passed by the second respondent in connection with Crime No.277 of 2021 on the file of the third respondent and quash the same and consequently, direct the respondents to defreeze the petitioner's account in A/c.No.825310110000037 with the fourth respondent.



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2. It is not in dispute that an FIR came to be registered in Crime No.277 of 2021, dated 14.11.2021 against the petitioner for the offence under Sections 8(c), 20(b)(ii)(A) of NDPS Act and that the investigation is pending.

3. The case of the prosecution is that on receipt of secret information, the petitioner was intercepted by the third respondent on 14.11.2021 and recovered 150 grams of Ganja.

4. The case of the petitioner is that she is a poor illiterate and she was not involved in any such alleged offence; that the petitioner approached the fourth respondent Bank for getting loan and the loan of Rs.30,000/- was sanctioned; that the first installment started from 02.06.2022 onwards; that when the petitioner approached the fourth respondent to withdraw the loan amount, she was informed that she could not withdraw the amount because of the impugned proceedings of the second respondent and that the proceedings to freeze the petitioner's account initiated by the second respondent, is not sustainable in law.



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5. It is pertinent to mention that Section 68(A) of NDPS Act while referring the persons to whom, Chapter V (A) of the NDPS Act is applicable, has specifically referred that every person who has been arrested or against whom a warrant or authorisation of arrest has been issued for the commission of an offence punishable under the NDPS Act with imprisonment for a term of 10 years or more and every person who has been arrested or against whom a warrant of authorisation of arrest has been issued for the commission of a similar offence under any corresponding of any other country.

6. As rightly contended by the learned counsel for the petitioner, the offence (i.e., Section 20(b)(ii) (A) of NDPS Act), which deals with small quantity, attracts punishment with rigorous imprisonment for a term which may extend to one year or with fine which may extend to Rs.10,000/-.

7. The learned counsel for the fourth respondent Bank would submit that since the second respondent has sent a letter dated



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22.05.2022, directing the Bank Authorities to freeze the bank transactions of the petitioner's account maintained with fourth respondent Bank and on the basis of the requisition, the account of the petitioner was ordered to be freezed and that the petitioner was informed of the same vide letter, dated 17.09.2022.

8. The learned Additional Public Prosecutor appearing for the State would submit that since the petitioner was charged with the offence of possessing of small quantity of Ganja, which attracts punishment with rigorous imprisonment of one year, the question of applying the Chapter V (A) of NDPS Act does not arise at all.

9. Considering the above, this Court has no hesitation to hold that the impugned order is legally unsustainable and the same is liable to be set aside.

10. In the result, the Writ Petition is allowed and the impugned proceedings in C.No.01/E4 PS/Ins-TK/2022, dated 27.05.2022 passed by the second respondent in connection with Crime No.277 of 2021 on the



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file of the third respondent is set aside and the fourth respondent is hereby directed to defreeze the petitioner's account immediately. No costs. Consequently, connected Miscellaneous Petitions are closed.

02.01.2023

Index : Yes / No
Internet : Yes / No
das

To

- 1.The Superintendent of Police,
Madurai District,
Madurai.
- 2.The Inspector of Police,
Thirumangalam Taluk Police Station,
Madurai District.
- 3.The Inspector of Police,
Sindhupatti Police Station,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Order made in
W.P.(MD)No.27999 of 2022
and
W.M.P(MD)Nos.22088 and 22089 of 2022

Dated: 02.01.2023