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CrI.O.P.No.32127 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2025

CORAM

THE HON'BLE MR. JUSTICE SUNDER MOHAN

CrI.O.P.No.32127 of 2024

Dhanalakshmi,
W/o. Sasikumar,
No.335, Thalapathi Street, Anna Nagar,
Nallur Somangalam,
Kanchipuram – 600 069.

... Petitioner

Versus

The Superintendent of Customs,
RSI-AIR, New Custom House,
Meenambakkam,
Chennai – 600 027.

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita,(BNSS), 2023, pleaded to enlarge the petitioner on bail, in connection with C.C.No.223 of 2022 on the file of the Principal Special Court for NDPS Act Cases, Chennai.

For Petitioner : Mr. S. Mohamed Ansar

For Respondent : Mr. N. P. Kumar,
Special Public Prosecutor.



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ORDER

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This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 10.12.2021, seeking bail in C.C.No.223 of 2022 pending on the file of the Principal Special Court for NDPS Act Cases, Chennai, for the offence under Sections 8(C) r/w 20(b)(ii)(C), 22C of NDPS Act, 1985.

2. The case of the prosecution is that the petitioner had concealed 99 grams of “Methamphetamine Hydrochloride” in her rectum, which is a commercial quantity. Hence, the case.

3. This is the third bail application before this Court. The earlier bail application in Crl.OP.No.15541 of 2024 was dismissed on 30.07.2024 by the Hon'ble Mrs.Justice T.V.Thamilselvi and this bail petition is listed before this Court pursuant to the orders passed by the Hon'ble Division Bench of this Court in Crl.O.P.No.31787 of 2024 on 04.03.2025.



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4. Learned counsel appearing for the petitioner submitted that the petitioner's husband has passed away, and produced the death certificate of the petitioner's husband who died on 03.02.2022. He further submitted that the petitioner has two children, who are being taken care of by the relatives and have facing hardships; that while dismissing the earlier bail Application in Crl.OP.No.15541 of 2024 on 30.07.2024, this Court had directed the Trial Court to dispose the case within a period of four months from the date of receipt of a copy of that order; that however, the trial has not been completed so far; and that the petitioner's continuous incarceration would affect his fundamental right under Article 21 of the Constitution of India and sought for bail.

5. Learned Government Advocate (Crl.Side) appearing for the respondent police, while opposing for grant of bail to the petitioner, reiterated the case of the prosecution and submitted that the trial has now commenced; that the trial will be concluded in the near future; that the petitioner has to satisfy the twin conditions under Section 37 of NDPS Act, and opposed the grant of bail to the petitioner.



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6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) for the respondent Police and perused the materials available on record.

7. It is not in dispute that the petitioner is in custody from 10.12.2021 and her husband died on 03.02.2022. Since the petitioner was in possession of a commercial quantity, she is bound to satisfy the twin conditions under Section 37 of the NDPS Act, which she has not done. However, the continuous incarceration of the petitioner indefinitely during trial would violate her right under Article 21 of the Constitution of India. Hence, this Court is inclined to direct the trial Court to conclude the trial as expeditiously as possible. If the trial is not completed within a period of two months from the date of receipt of a copy of this order, the petitioner is at liberty to renew the bail application before the trial Court.

8. Accordingly, this Criminal Original Petition is disposed of.

01.04.2025

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- To
1. The Principal Special Court for NDPS Act Cases, Chennai.
 2. The Superintendent of Customs,
RSI-AIR, New Custom House, Meenambakkam, Chennai – 600 027.
 3. The Superintendent, Women Special Prison, Puzhal, Chennai.
 4. The Public Prosecutor, High Court of Madras.



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SUNDER MOHAN, J.

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