



CRL OP(MD). No.20776 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 07/01/2025

PRESENT

The HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL OP(MD). No.20776 of 2024

Saranya

... Petitioner/ Accused No.3

Vs

The Inspector of Police,
Keeraithurai Police Station,
Keeraithurai,
Madurai District.
(Crime No.105 of 2024)

... Respondent/ Complainant

For Petitioner : Mr.J.Sankarapandian, Advocate.

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

PETITION FOR BAIL Under Sec.483 of BNSS

PRAYER :-

For Bail in Crime No. 105 of 2024 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner / Accused No.3, who was arrested and remanded to judicial custody on 07.03.2024 for the offences under Sections 8(c), 20(b)(ii)(C) and 29(1) of NDPS Act in Crime No.105 of 2024 on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that on 07.03.2024 at about 13.55 hours, the Sub Inspector of Police received a secret information that Accused Nos.1 to 3 have hoarded / concealed ganja near Muniyandi Kovil in the woods / shrubs. They also



CRL OP(MD). No.20776 of 2024

WEB COPY

planned to take away the ganja on the same day at about 02.00 p.m. This information was recorded in the general diary and it was intimated to the superior officers and after obtaining permission, the Police team went to the spot and conducted a surveillance and at that time, Accused Nos.1 to 3 were spotted in that place and upon search, 25 kgs of ganja, which was kept in a sack bag, was seized. When Accused No.1 was questioned about the same, he disclosed that he has received ganja from Accused No.4 and pursuant to the same, Accused No.4 was also arrested. There are totally four accused persons in this case and the petitioner has been arrayed as Accused No.3 and she is the wife of Accused No.1.

3. The learned counsel appearing for the petitioner submitted that the petitioner has nothing to do with the alleged offence. He further submitted that the petitioner has suffered incarceration in this case from 07.03.2024 and that the petitioner has a small child aged about 3 ½ years, who is now being taken care by the petitioner's mother. The learned counsel further submitted that there is a substantial delay in the samples being taken and the same being sent for chemical analysis. The learned counsel also relied upon the order passed by this Court in Crl.O.P.(MD).No.16223 of 2024, wherein, Accused No.4 was enlarged on bail.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondent Police vehemently opposed the grant of bail to the petitioner on the



CRL OP(MD). No.20776 of 2024

WEB COPY

ground that twin requirements under Section 37 of the Act has not been satisfied. He further submitted that Accused Nos.1 to 3 were found in the spot and 25 kgs of ganja was seized and there is absolutely no mandatory violation in this case. He further submitted that Accused Nos.1 to 3 as a family, were engaged in the procurement and supply of ganja. He further submitted that the grant of bail to Accused No.4 was on the peculiar facts of the case and the same cannot be taken advantage by the petitioner. It was further submitted that the case is posted for examination of witnesses on 27.01.2025. Hence, the learned Additional Public Prosecutor sought for dismissal of this petition.

5. This Court has carefully considered the submissions made on either side and the materials available on record.

6. In the case in hand, the petitioner has been arrayed as Accused No.3 and she is the wife of Accused No.1. It is the case of the prosecution that ganja was kept in a sack bag and it was concealed in the shrubs / woods. When the Search was conducted based on the secret information, Accused Nos.1 to 3 are alleged to have been found in the spot and thereafter, search was conducted and the Sack bag was seized and it contained 25 kgs of ganja, which is a commercial quantity.

7. The grant of bail to Accused No.4 cannot be taken advantage by the petitioner, since Accused No.4 was roped in this case based on the confession of



CRL OP(MD). No.20776 of 2024

Accused No.1 and this Court prima facie found that there is no material against
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Accused No.4. Hence, the bail order passed for Accused No.4 was on the peculiar
facts that are applicable only to accused No.4.

8. This Court takes into consideration the fact that the petitioner has suffered incarceration from 07.03.2024. That apart, there is a small child aged about 3 ½ years to be taken care by the petitioner and presently, the child is taken care by the mother of the petitioner. This Court also takes into consideration the interest of the child and the fact that it will take some more time for the trial to be completed in this case. This Court also takes into consideration the fact that there are no previous cases against this petitioner. Hence on the peculiar facts of this case, this Court is inclined to enlarge the petitioner on bail by applying Article 21 of the Constitution of India on the basis of long incarceration of the petitioner and also considering the interest of the small child.

9. In view of the above discussion, the criminal original petition is ordered and the petitioner is ordered to be released on bail on 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 for Trial of NDPS Act Cases, Madurai and on further conditions that:-

[a] the sureties shall affix their photographs and Left Thumb Impression in the



CRL OP(MD). No.20776 of 2024

surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass
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Book to ensure their identity.

[b] the petitioner shall appear before the trial court daily at 10.30 a.m., until further orders and also during every date of hearing without fail.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond 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 absconds, a fresh FIR can be registered under Section 269 of BNS, 2023.

sd/-
07/01/2025

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07/01/2025

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

TSG



CRL OP(MD). No.20776 of 2024

TO
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1 THE JUDGE, PRINCIPAL SPECIAL JUDGE FOR TRIAL OF NDPS ACT CASES,
MADURAI.

2 THE SUPERINTENDENT, CENTRAL WOMEN PRISON, MADURAI.

3 THE INSPECTOR OF POLICE, KEERAITHURAI POLICE STATION,
KEERAITHURAI, MADURAI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN

CRL OP(MD) No.20776 of 2024

Date :07/01/2025

RS/IT/SAR-(07.01.2025) 6P 5C
Madurai Bench of Madras High Court is issuing
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