
(2024) 04 MAD CK 0038

Madras High Court

Case No: Criminal Original Petition No. 7802 Of 2024

Rajakumari @Kumari

APPELLANT

Vs

State

RESPONDENT

Date of Decision: April 5, 2024

Acts Referred:

- Narcotic Drugs And Psychotropic Substances Act, 1985 - Section 8(c), 20(b)(ii)(c), 29(1)
- Indian Penal Code, 1860 - Section 229A

Hon'ble Judges: C.V.Karthikeyan, J

Bench: Single Bench

Advocate: M.Velmurugan, RN.Kasi Vishwanathan, V.J.Priyadarsana

Judgement

C.V.Karthikeyan, J

1. The petitioner/second accused in Crime No. 709 of 2023 registered by the respondent police under Section 8(c) read with 20(b)(ii)(c), 29(1) of the Narcotic Drugs and Psychotropic Substances Act 1985, who was remanded to custody on 14.10.2023 seeks bail.

2. The learned counsel for the petitioner stated that there has been no recovery from the petitioner herein. The petitioner was only helping the first accused from whom there was recovery. It is stated that the petitioner is a widow and has two children. She was going from Cuddalore to Chennai to visit Vadapalani Murugan Temple and was accompanied by the first accused, who was a co-passenger. The first accused had asked the petitioner to wait for an auto near a bus terminus and at that time, they were intercepted by the respondent. On search, the respondent recovered 22.20 kgs of Ganja from the possession of the first accused. The petitioner was standing just near to the first accused. It is contended by the learned counsel for the petitioner that the petitioner is innocent and did not know about the possession of Ganja by the first accused.

3. It is however the contention of the respondent that 22.200 kgs of ganja had been recovered from both the accused Nos. 1 and 2. It is stated that the quantity is commercial in nature. It is also stated that there is yet one more accused / A-3 who is absconding. It is also contended that as against this petitioner, there were two earlier cases in Cr.No. 37 of 2021 and Cr.No. 1010 of 2015 both registered under Section NDPS Act. It is therefore contented that the petition should be dismissed.

4. The contention of the learned counsel for the petitioner is that the petitioner was a stranger to the first accused. She had travelled from Cuddalore to Chennai to visit Vadapalani Murugan Temple and the first accuse was a co-passenger and they had both got down from the bus and at that time, since they were standing together, the respondent had intercepted both of them. It is seen that from the possession of the first accused 22.200 kgs of ganja had been seized.

5. The earlier application seeking bail was dismissed by an order dated 11.03.2024 in CrI.O.P.No. 2445 of 2024.

6. At that time, it had been informed that there were two previous cases against the petitioner herein. The learned counsel for the petitioner had however stated that in one of them, in C.C.No. 115 of 2021 relating to FIR in Cr.No. 108 of 2021 and FIR in Cr.No. 37 of 2021, the petitioner had been acquitted of all charges by Judgment dated 29.04.2022.

7. It is seen that there has been recovery only from the first accused and not from the present petitioner herein. There are reasonable grounds to hold that the petitioner can establish that she was a stranger to the first accused and did not know the first accused prior to be found standing next to her when the contraband was seized. Holding that as a significant fact and giving opportunity to the petitioner herein to establish that fact of total ignorance about the first accused prior to the seizure of the contraband, and there could be a possibility of the petitioner being held not guilty of the offence on conclusion of trial, this Court is inclined to grant bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail on condition to execute 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 Sessions Special Court under EC & NDPS Act 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.

[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 absconds, a fresh FIR can be registered under Section 229A IPC.