



WEB COPY



CrI.M.P.No.4473 of 2021

in

CrI.A.No.153 of 2021

D.BHARATHA CHAKRAVARTHY, J.

The learned counsel for the petitioner would submit that in this case Section 50 is not complied with and therefore, there is a prima facie case which satisfies Section 37 of the Act even though the quantity is of commercial quantity. This apart, she would also submit that the contraband was not sent to the forensic lab within a period of 72 hours as mandated under the Act. Therefore, in view of this procedural lapses coupled with the inconsistency in the evidence, the petitioner has made out more than a prima facie case and therefore, this Court should consider the suspension of sentence petition. The learned counsel also relied upon the judgment reported in *Union of India Vs.Mohanlal and another* reported in **2016 1 SCC CrI 864** for the said proposition.

2.Per contra, the learned Government Advocate (CrI.Side) would submit that in this case, the trial Court dealt with both the grounds raised by the learned counsel and found that the compliance of Section 50 is not mandatory. The contraband is not seized by way of bodily search. Following the judgment of the Hon'ble Supreme Court of India, if the case of seizure is not through bodily



search, it is not mandatory to follow Section 50 of the Act. The time of seizure and time of sending the contraband to forensic lab is also disputed in this case. In that view of the matter, the learned Government Advocate (Crl.Side) submitted that the quantity being commercial quantity i.e., 22kilograms of Ganja was seized, opposed the grant of bail to the petitioner.

3.I have considered and perused all the material records in this case. I am of the view that at this stage, it is premature for this Court to give specific findings in respect of the grounds raised by the learned counsel for the appellant as the same will have a bearing at the time of hearing the appeal. Suffice it to say that on the cumulative reading of the evidence and the order of trial Court, I am of the view that the petitioner does not satisfy Section 37 so as to grant the bail as the quantity is of commercial quantity.

4.Accordingly, this petition is dismissed.

07.07.2022

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