



Crl.OP.No.19159 of 2022

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WEB C **G.K.ILANTHIRAIYAN, J.**

The petitioner, who was arrested and remanded to judicial custody on 10.04.2022 for the offences punishable under Sections 8(c) r/w 20(b)(ii) (c), 23(c), 28 & 29 of NDPS Act, 1985 in CC.No.256 of 2021 pending on the file of the learned Special Judge-II, Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai in respect of NCB,F,No.48/1/04/2021-NCB-MDS on the file of the respondent, seeks bail.

2. The case of the prosecution is that while the petitioner was waiting in departure lounge, check-in-area, Kamaraj Domestic Terminal, Chennai Airport on 10.04.2021, the respondent intercepted the petitioner and introduced themselves as Intelligence Officer and enquired her whether she is in possession of any prohibited substance and further instructed the Indigo Airlines crews to revert the checked in luggage of the petitioner and on interrogation found a box dumped with gift articles of glass and plastic in that 6 packets each weighing 500 grams packet contains dark brown in colour of substances, believed to be Hashish which came to be seized after checked in luggage and further a voluntary statement was recorded from the petitioner / accused and thereafter seizure was made and 25 grams from each packet taken for samples by the respondent.



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3. Mr.Vimal B.Crimson, the learned counsel for the petitioner would submit that on secret information, the petitioner was found in possession of 3 kg Hashish oil. Actually, the said contraband was kept in the luggage in a carton box. A3 had given the said box to travel to Sharjah. The petitioner does not know the contents of the carton box. She knows only Tamil. In the seizure mahazar, she signed in Tamil. However, what are all the materials were seized from the petitioner, the same was not explained to the petitioner in Tamil. Though stated that the contents of the Mahazar explained in Tamil, nothing has been whispered in the statement. He further submitted that she is suffering from paralytic and she was arrested and remanded to judicial custody on 10.04.2021. Hence, he prays for grant of bail to the petitioner.

4. Mr.N.P.Kumar, Special Public Prosecutor for Customs filed counter which revealed that the petitioner was in possession of the seized contraband of 3 kgs of hashish oil and it is a commercial quantity. It was found in a box with gift articles of glass and plastic, in that six packets each weighing 500 grams packet contains dark brown in colour of substances deemed to be hashish. In fact, her statement was also recorded as contemplated under Section 67 of NDPS Act, in which she categorically admitted her guilt in



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procurement, possession and attempted to transport and entering into conspiracy for the illicit trafficking of 3 kgs of hashish. It was seized from the petitioner on 09.04.2021 and arrested the petitioner on 10.04.2021 and remanded to judicial custody. It is a commercial quantity.

5. That apart, the grounds raised by the petitioner can be considered only during the trial before the trial court. The Hon'ble Supreme Court of India repeatedly held that while at the stage of examining an application for bail in the context of the Section 37 of NDPS Act, the Court is not required to record a finding that the accused person is not guilty. The court is also not expected to weigh the evidence for arriving at a finding as to whether the accused has committed an offence under the NDPS Act or not. The entire exercise that the Court is expected to undertake at this stage is for the limited purpose of releasing the petitioner on bail. Thus, the focus is on the availability of reasonable grounds for believing that the accused is not guilty of the offences that the accused has been charged with and the accused is unlikely to commit an offence under the Act while on bail. In the case on hand, the petitioner failed to satisfy twin conditions as contemplated under Section 37 of NDPS Act. Accordingly, the petitioner has to satisfy this Court that there are reasonable grounds believing that she is not guilty of such offence and she is



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not likely to commit offence while on bail. It is seen that the petitioner was in possession of hashish weighing 3 kg. Therefore, this Court is not inclined to grant bail to the petitioner.

6. Accordingly, this criminal original petition is dismissed.

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