



Crl.OP.No.22873 of 2022

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G.K.ILANTHIRAIYAN, J.

The petitioner, who was arrested at the hands of the respondent Police and remanded to judicial custody on 04.05.2022 for the offences punishable under Sections **8 (c) and 20 (b) (ii) (c) of NDPS Act, 1985** in Crime No.487 of 2022, seeks bail.

2. The case of the prosecution is that, the petitioner was found in possession of 2 Kgs of Ganja in a two wheeler. Hence, a case was registered as against the petitioner.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. Hence, he prays for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor submitted that the petitioner along with other accused were in conscious possession of 41 ½ Kgs of Ganja. This is the second bail petition filed by the petitioner. Earlier petition filed by the petitioner was dismissed on 23.08.2022 in Crl.O.P.No.19571 of 2022. Hence, he vehemently opposed grant of bail to the petitioner.

5. Though, the contraband seized from the petitioner was weighing 2 kgs, on the confession, the respondent Police went to the house of A3 and seized 41 ½ kgs of Ganja. Therefore, all the accused persons were in conscious possession of Ganja, which comes under the commercial quantity and thereby, Section 37 of NDPS Act is applicable in this case and the burden



Crl.OP.No.22873 of 2022

is on the accused to make out a case to satisfy the Court that there are reasonable grounds to believe that they are not guilty of such offence.

6. However, the learned counsel for the petitioner would submit that even according to the case of the prosecution, the petitioner was in possession of 2 kgs of Ganja and the alleged contraband of 41 ½ kgs was seized only from the house of A3. Therefore, it is not coming under the commercial quantity.

7. In view of the above, all the accused persons were in constructive possession of the contraband weighing 45 kgs of Ganja and it is a commercial quantity. Further, the petitioner failed to satisfy the twin conditions as contemplated under Section 37 of NDPS Act and that there is no change of circumstances after the previous dismissal order passed by this Court, this Court is not inclined to grant bail to the petitioner.

8. Accordingly, this Criminal Original Petition is dismissed.

27.09.2022

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