



Crl.O.P.No.3409 of 2023

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

The petitioner, who was arrested and remanded to judicial custody on 17.03.2022 for the offences punishable under Sections 8(c) r/w 20 (b)(ii) (b) and 28 of NDPS Act, in Crime No.73 of 2022 on the file of the respondent, seeks bail.

2. There are totally two accused, in which the petitioner is arrayed as A2. The case of the prosecution is that the petitioner along with other accused, were selling 10 kgs of Hahish oil and 1.250 gms of Ganja. Hence, the complaint.

3. The learned counsel for the petitioner submitted that among two accused, the petitioner was not in possession of the alleged contraband even as per the prosecution. He also pointed out from the First Information Report that both have together committed the crime and even then, the alleged contraband was seized only from the first accused. He further submitted that the first accused has also been granted bail by this Court in Crl.O.P.No.2495 of 2023 on 06.02.2023. Even the seizure mahazer says



that the contraband was seized only from the first accused and the petitioner is wrongly connected with the other accused. Therefore, the petitioner seeks bail.

4. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner along with other accused were selling 10 kgs of Hahish oil and 1.250 gms of Ganja. He further submitted that there is no change of circumstances after the previous dismissal orders passed by this Court. Hence, he vehemently opposed for grant of bail to the petitioner.

5. On a perusal of the records, it reveals that the petitioner and the first accused were jointly in constructive possession of the contraband. Though this Court granted bail to the first accused, the petitioner is not entitled for bail, since he failed to satisfy twin conditions as contemplated under Section 37 of the NDPS Act. The first accused was granted bail before this Court only on the medical ground since he is taking treatment in the Intensive Care Unit and he requires further treatment. As such, this Court granted bail to the first accused. As far as the petitioner is concerned, he was



Crl.O.P.No.3409 of 20__

under constructive possession of the contraband with the first accused.

WEB COPY

6. Taking into consideration the facts and circumstances of the case and the bad antecedents of the petitioner and also the earlier petitions filed by the petitioners were dismissed by this Court and that there is no change of circumstances, this Court is not inclined to grant bail to the petitioner.

7. Accordingly, this Criminal Original Petition is dismissed.

27.02.2023

kv



WEB COPY



Crl.O.P.No.3409 of 20__

G.K.ILANTHIRAIYAN,J.

Kv

Crl.O.P.No.3409 of 2023

27.02.2023