



Crl.O.P.No.3545 of 2023

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T.V.THAMILSELVI,J.

The petitioner, who was arrested and remanded to judicial custody on 12.12.2021 for the offences punishable under Sections 8(c) read with 22(c), 29(1) of Narcotic Drugs & Psychotropic Substances Act, 1985 in Crime No.1166 of 2021 on file of the respondent police, seek bail.

2. The case of the prosecution is that based on the secret information, the respondent police and his team went to the scene of occurrence, wherein, they found that the accused were in illegal possession of LSD Stamps. And the respondent police has seized the contraband recovered from all the accused and in respect of this petitioner, 27 LSD Stamps weighing about 0.424 grams, which comes under commercial quantity, were recovered. Hence, the case.

3. Learned counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further



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submitted that the petitioner is in custody from 12.12.2021 and a proper final report was not filed in this case within a statutory period of 180 days with the material documents. He further submitted that the petitioner is ready to abide by any stringent conditions that may be imposed by this Court. Therefore, he prays for grant of bail to the petitioner.

4. The respondent has filed a detailed counter.

5. Learned Government Advocate (Crl.Side) appearing for the respondent police vehemently opposed for grant of bail to the petitioner stating that the petitioner along with other accused were in illegal possession of LSD stamps, which is a commercial quantity and in respect of this petitioner, 27 LSD Stamps weighing about 0.424 grams, were recovered by the respondent Police. He further submitted that the respondent has filed a final report before the statutory period and as they have not included one document as found by the learned Magistrate, the charge sheet was returned, subsequently, the document was produced and the final report was also taken on file in C.C.No.122 of 2022. Thereby, he submitted that since the



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respondent has not filed the full set of documents with charge sheet within the statutory period, the petitioner is not entitled to default bail and he also reiterated that the seized contraband is a commercial quantity.

6. In support of his contention, he relied upon the Hon'ble Apex Court Judgment in *Narendra Kumar Amin vs. CBI* reported in **(2015) 3 SCC 417**, which is extracted hereunder:-

"15. The observation made at para 76 of the Constitution Bench judgment of this Court in *K. Veeraswami* that the report is complete if it is accompanied by all documents and statement of witnesses as required under Section 173(5) of CrPC cannot be construed as the statement of law, since it was not made in the context of the police report under Section 2(r) read with Section 173(2), (5) and (8) of CrPC. On the contrary, the three-Judge Bench of this Court in the decision in *CBI v. R.S. Pai* case, after referring to the earlier judgment of the coordinate Bench in *Narayan Rao* case categorically held that the word "shall" used in sub- Section (5) cannot be interpreted as mandatory, but directory. The said statement of law is made after considering the provisions of Section 2(r) read with Sections 173(5) and (8) of CrPC.



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Therefore, filing of police report containing the particulars as mentioned under Section 173(2) amounted to completion of filing of the report before the learned ACJM, cognizance is taken and registered the same. The contention of the appellant that the police report filed in this case is not as per the legal requirement under Section 173(2) and (5) of CrPC which entitled him for default bail, was rightly rejected by the High Court and does not call for any interference by this Court."

7. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the entire materials available on record.

8. It is seen from the above submissions made by either side of the parties, that once the learned Magistrate found that one document was not included in the final report filed by the respondent Police, the respondent has subsequently supplied the same and thereby, the final report was filed in time. Hence the petitioner is not entitled for default bail.



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9. Taking into consideration the facts and circumstances of the case, the submissions made by the learned Government Advocate (Crl.Side) and also considering the fact that alleged contraband comes under the commercial quantity, this Court finds that this case needs a detailed investigation, thereby, this Court is not inclined to grant bail to the petitioner.

10. Accordingly, this Criminal Original Petition stands dismissed.

28.02.2023

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