



Crl.O.P.No. 5098 of 2023

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T.V.THAMILSELVI, J.

The petitioner, who was arrested and remanded to judicial custody on 05.11.2020 for the alleged offence under Sections 8(c), 20(b)(ii)(C), 25 and 29(i) of NDPS Act in Crime No.31 of 2020 on the file of the respondent police, pending trial in C.C.No. 131 of 2020 on the file of II Addl. Judge, NDPS Cases, City Civil Court, Chennai, seeks bail.

2. The case of the prosecution is that on receipt of a secret information, the respondent police along with his team conducted a vehicle check up and they found the accused were in illegal possession of 205 grams of ganja and the same was seized by them. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the material was not produced before the Magistrate in time and it was produced only on 10.11.2020 after more than five days from the date of registration of F.I.R. and the materials also was not produced at the time of remand by the Investigating agency, which show that the property was seized on the date



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of alleged occurrence and subsequently, it was included itself shows that they have violated the procedures contained in the Act. As per the confession of other accused A1, this petitioner was implicated as accused in this case. He would also submit that this is the second petition seeking for bail. He would submit that he has not at all committed any offence as alleged by the respondent police and he is no way connected with the occurrence. He would further submit that the petitioner has been suffering incarceration for more than two years from 06.08.2022. Hence, he prayed to grant bail to the petitioner. To support his contentions, he has relied on the authority in the case of ***State of Rajasthan vs. Paramand and another*** in ***Crl.Appeal No. 78 of 2005***, in which Apex Court held as follows :-

“12. Thus, if merely a bag carried by a person is searched without there being any search of his person, Section 50 of the NDPS Act will have no application. But if the bag carried by him is searched and his person is also searched. Sec.50 of NDPS Act will have application. In this case, respondent No.1 Paramanand's bag was searched. From the bag, opium was recovered. His personal search was also carried out. Personal search of respondent No.2 Surajmal was also conducted. Therefore, in the light of judgement of this



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4. The learned Government Advocate (Crl. Side) appearing for respondent would submit that the petitioner along with other accused found in possession of 205 grams of ganja, which is a commercial quantity and as per the direction of this court, the trial is in progress and witnesses also examined. He would submit that the authority relied by the learned counsel for petitioner is not applicable to the facts of the present case. He would submit that if he is released on bail, he would tamper the witnesses and hamper the investigation. Hence, he vehemently opposed to grant bail to the petitioner.

5. Considering the facts and circumstances and on considering the contention of the petitioner that the petitioner is known only Malayalam language, inspite of that, he was falsely implicated in this case and he is an illiterate person and he still not known for what reason he was arrested and on considering submission of Government Advocate that now the trial is in



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progress and while they are travelling in a TATA 407 vehicle, the alleged contraband was seized. If at all, the petitioner is having any defence, such defence can be taken before the trial court and also the fact that there is no change of circumstances, this Court is not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

05.04.2023

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