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Crl.O.P.No.11262 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioner, who was arrested and remanded to judicial custody on 25.01.2023 for the offences punishable under Sections 8(c), 20(b)(ii)(c), 25 and 29(1) of Narcotic Drugs & Psychotropic Substance (NDPS) Act, 1985, in Crime No.13 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 25.01.2023, at about 07.45 hours, on receipt of a secret information about the illegal transportation of Narcotic Substance, the Inspector of Police along with his team, intercepted the vehicle of the accused bearing Registration No.TS 04 UC 1733 near Stanley Roundana and found the accused in illegal possession of 44 kgs of Ganja. Hence the case.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and a false complaint has been registered



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against him as if, he had transported 44 kgs of Ganja. The petitioner was only working as a driver and he is neither owner of the vehicle nor owner of the contraband. He further submitted that this is the 2nd application for bail and the earlier application filed by the petitioner was dismissed by this Court in Crl.O.P.No.7448 of 2023 by order dated 10.04.2023 and that the petitioner has been languishing in jail for more than 4 months from 25.01.2023. Hence, he prayed for grant of bail to the petitioner.

4.The respondent has filed a detailed counter.

5.The learned Government Advocate (Crl. Side) appearing for the respondent Police vehemently opposed for grant of bail to the petitioner stating that though the petitioner is not the owner of the vehicle, on the date of occurrence, the petitioner was arrested while he was driving the vehicle along with the contraband of commercial quantity of 44 Kgs. of Ganja and there are materials to show that the petitioner had colluded with A2 and A3 and they had purchased the same from Visagapattinam, Andhra Pradesh, to sell the same to the persons in



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Koyambedu. He further submitted that when the alleged lorry was intercepted, the contraband was recovered from the conscious possession of the petitioner and two other accused. This Court on finding that the contraband of 44 Kgs. of Ganja, which is a commercial quantity has been recovered from the conscious possession of the petitioner and that the petitioner had not satisfied the twin conditions as required under Section 37 of NDPS Act, had dismissed the earlier application filed by petitioner by order dated 10.04.2023. Now the investigation has been completed and the case has been taken on file in C.C.No.334 of 2023 on the file of the EC & NDPS Act Cases, Chennai and the case has been posted on 15.06.2023 for appearance of the accused.

6.Heard the learned Counsel for the petitioner and the learned Government Advocate (crl.side) and perused the materials available on record.

7. It is a case where as per the prosecution the petitioner was found driving the vehicle bearing Regn.No.TN 04 UC 1733 and he was



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arrested along with contraband of 44 Kgs. of Ganja. Though there is some discrepancies with regard to the ownership of the vehicle, when the petitioner was arrested, he was driving the vehicle and from his conscious possession, the alleged contraband has been recovered. Therefore, this Court on finding that the petitioner had not satisfied the twin conditions required under Section 37 of NDPS Act, had dismissed the earlier application filed by the petitioner by order dated 10.04.2023 and there is no change in circumstances. Therefore, this Court is not inclined to grant bail to the petitioner.

8. Accordingly, this Criminal Original Petition is dismissed.

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