



Crl.OP.No.16800 of 2023

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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 08.12.2021 for the offences punishable under Sections 8(c), 20(b)(ii)(C) of Narcotic Drugs & Psychotropic Substances Act, 1985 in Crime No.791 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that there are totally three accused, in which the petitioner is arrayed as A2. The petitioner was found in possession of 4.300 kgs of Ganja. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that there are totally three accused, in which the petitioner is arrayed as A2. As far as the petitioner is concerned, he was found in possession of 4.300 kgs of Ganja. Other accused persons namely A1 was found in possession of 13 kgs and A3 was found in possession of 4.100 kgs. Therefore, all the accused were jointly in possession of commercial quantity of Ganja. Though the petitioner along with two other persons were staying together, only on the confession statement of the co-accused, they were jointly charge sheeted and altered the offences into Sections 8(c), 20(b)(ii)(C) and 29(1) of Narcotic Drugs & Psychotropic Substances Act, 1985. He also submitted that initially the FIR was registered under Sections 8(c), 20(b)(ii)(C) of Narcotic Drugs & Psychotropic Substances Act, 1985. Though all the accused were jointly found in possession, the respondent did not register the



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FIR under Section 29(1) of NDPS Act. Only after six months, the respondent filed an alteration report that too before the learned Judicial Magistrate, Chennai, without any jurisdiction. In fact, the petitioner filed a copy application before the Trial Court and asked for certified copy of alteration report. It was returned on the ground that no alteration report was filed and charges are not yet altered. He also submitted that the petitioner has been suffering incarceration from the date of his arrest i.e.08.12.2021. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.side) submitted that the petitioner was found in possession of 4.300 kgs of Ganja. He further submitted that the earlier petition filed by the petitioner was dismissed on merits by this Court. Hence, he vehemently opposed grant of bail to the petitioner.

5. A perusal of records revealed that the petitioner was found in possession of 4.300 kgs of Ganja and he is arrayed as A2. A1 to A3 are staying the same room and they are hailing from North India. All the accused persons were found in joint possession of the contraband weighing more than 20 kgs and it is a commercial quantity. It is also seen that after accepting the alteration report, the Trial Court framed charges as against all the accused persons under Sections 8(c), 20(b)(ii)(C) and 29(1) of Narcotic Drugs & Psychotropic Substances Act, 1985. Therefore, it cannot be accepted that the alteration report is not filed so far and the same was not ordered by the Trial Court.



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6. In view of the above, the petitioner has failed to satisfy the twin conditions as contemplated under Section 37 of NDPS Act and 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.

7. The learned II Additional Special Judge, Special Court under EC and NDPS Act, Chennai is directed to complete the Trial in C.C.No.166 of 2022, within a period of six months from the date of receipt of a copy of this order.

26.07.2023

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The II Additional Special Judge, Special Court under EC and NDPS Act, Chennai.



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