



Crl.O.P.No.18794 of 2023

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G.CHANDRASEKHARAN. J.

The petitioner namely Zhagir Hussain, who was arrested and remanded to judicial custody on 01.06.2022 for the offence punishable under Section 9A, 22(c) and 25A of the Narcotic Drugs and Psychotropic Substances Act, 1985 in Crime No.190 of 2022 on the file of the respondent police, seeks bail.

2. The learned counsel for the petitioner submitted that, petitioner is falsely implicated in this case in Crime No.190 of 2022 for the offences under Section 9A, 22(c) and 25A of the Narcotic Drugs and Psychotropic Substances Act, 1985, for the possession of 1 kg of ephedrine and 1 kg of Methamphetamine. The petitioner is in judicial custody on 01.06.2022. The investigation in this case is completed and final report is filed in C.C.No.139 of 2023 pending on the file of the learned Principal Sessions Court under EC & NDPs Act, Chennai.

3. Learned Additional Public Prosecutor, opposes this bail petition, on the ground that, on 01.06.2022, at about 09.00 a.m., on secret information received that, three persons in two wheelers are standing opposite to Barma



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Bazaar, HP Petrol Bunk with Methamphetamine and Ephedrine. The defacto complainant along with police party, had immediately rushed to the spot. At about 09.10 a.m., they found three persons in Black Honda Active two wheeler bearing No.TN 03 Q 5977. The police party apprehended the accused namely Mohammed Sulthan, Sunaitha Ali and Zhagirhussain. After following necessary procedure, a search was conducted and respondent police found two plastic covers in the underbelly of the back seat of the two wheeler. On examination, respondent police found one plastic cover containing 1 Kg of Methamphetamine and another plastic cover containing 1 Kg of Ephedrine. The contraband was seized and the accused were arrested and the case came to be registered. He further submitted that, 1 kg Methamphetamine is a Commercial quantity, i.e., possession of Methamphetamine, in excess of 50 grams and above would fall under the category of commercial quantity. Though investigation in this case is completed, petitioner has not satisfied the twin conditions under Section 37 of NDPS Act. He further submitted that, if the petitioner is released on bail, petitioner would abscond and threaten the witnesses and tamper of evidence. The investigation in this case is pending. Therefore, he prays for dismissal of this bail petition.



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4. Considered the rival submissions and perused the records.

5. It is seen from the material produced, especially the first information report allegations and the submissions of the learned counsel appearing for the parties that, all the three accused jointly found in possession of 1 kg of Metamphetamine, which is a commercial quantity and 1 kg of Ephedrine. It is apprehended by the learned Additional Public Prosecutor that, if the petitioner is released on bail, petitioner would abscond and threaten the witnesses and tampering of evidence. The Chemical analysis report confirmed the presence of Methamphetamine in the samples in Item Nos.I, III, IV and the presence of Pseudoephedrine in the samples in Item No.II and V. From the evidence available, the fact that, petitioner was found with possession of commercial quantity methamphetamine, is enough to frame the charges against the petitioner.

5.1. In the light of the materials available, this Court cannot form a view that, petitioner has not committed the offence alleged against him and he



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will not commit the offence if he is released. This court also finds from the submissions of the learned Additional Government Pleader that, if the petitioner is released on bail, there is a possibility of the petitioner to abscond and that, he may threaten the witnesses and tamper the evidence.

6. In the said circumstances, this Court is of the view that, petitioner has not satisfied the twin conditions under Section 37 of NDPS Act, the investigation in this case is pending, thus, this Court is not inclined to release the petitioner on bail. Accordingly, this Criminal Original Petition is dismissed.

16.08.2023

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