



Crl.O.P.No.20226 of 2023

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G.CHANDRASEKHARAN. J.

The petitioners namely Nabeel and Jamsheed, who were arrested and remanded to judicial custody on 17.06.2023 for the offence punishable under Sections 8(c) r./w Sections 20(b)(ii)(C) of the NDPS Act in Crime No.228 of 2023 on the file of the respondent police, seek bail.

2. The learned counsel for the petitioners submitted that, petitioners are falsely implicated in this case in Crime No.228 of 2023 for the offences under Sections 8(c) r./w Sections 20(b)(ii)(C) of the NDPS Act. He further submitted that, ganja was not recovered from the petitioners. Petitioners are in judicial custody from 17.06.2023. Thus, he seeks for grant of bail to the petitioner.

3. In response, Learned Additional Public Prosecutor, opposes this bail petition, on the ground that, on 16.06.2023, at about 15.30 hours, the defacto complainant found a car bearing No.KL 46 H 4497 at Periyampet Junction in Kaarimangalam to Dharmapuri Road. Two persons were standing near the car. They are Nabeel and Jamsheed. On enquiry, petitioners informed



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that, the car's tier got burst. On seeing inside the car, respondent police found sacks in the car. After following the necessary procedure, a search was conducted and ganja weighing 30 kgs was found in three sacks. The ganja and car had been seized. Samples were taken and sent for analysis and this case came to be registered. He further submitted that, commercial quantity of ganja was seized from 1st and 2nd accused. Petitioners have not satisfied the twin conditions under Section 37 of NDPS Act. Thus, he prays for dismissal of this bail petition.

4. In response, learned counsel for the petitioners submitted that, joint possession of ganja cannot be attributed to the petitioners. Therefore, contention of the learned Additional Public Prosecutor that petitioners have to satisfy the twin conditions under Section 37 of NDPS Act would not apply to the facts of the case.

5. Considered the rival submissions and perused the records.

5.1. As stated above, petitioners were found with a car bearing No.



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No.KL 46 H 4497, which had broken down due to burst of tire. During search, three sacks, each containing 10 kgs of ganja was found in the car. Therefore, petitioners cannot, from the evidence available now, contend that, joint possession of ganja cannot be attributed to the petitioner. There is no denial of the fact that the car was under the control and custody of the petitioners. In the said car, 30 kgs which is a commercial quantity, was recovered. Considering all these facts and that, petitioners have not satisfied the twin conditions under Sections 37 of NDPS Act, this Court is not inclined to release the petitioner on bail.

6. Accordingly, this Criminal Original Petition is dismissed.

04.09.2023

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