



Crl.OP.No. 20908 of 2023

Crl.O.P.No. 20908 of 2023

G.K.ILANTHIRAIYAN, J.

The petitioner, who was arrested and remanded to judicial custody on 19.08.2022 for the alleged offences punishable under Sections 8(c) r/w. 20(b)(ii)(C) of the NDPS Act in Crime No. 791 of 2021, 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 appearing for the petitioner submitted that there are totally three accused in which the petitioner is arrayed as A2. Even according to the prosecution, the petitioner was found in possession of 4.300 kgs of Ganja. All the accused were found in possession of 21.400 kgs of Ganja. Even then, the respondent failed to register a case under Section 29 of NDPS Act. The prosecution filed an application for disposal of the contraband under Section 52A of the NDPS Act, in which the Trial Court ordered to weigh the contraband of 19.09 kgs of Ganja and it is a intermediate quantity. Even if the sample is added it comes only 19.59 kgs which is lesser than the commercial quantity.



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4. That apart, the respondent failed to comply with the procedure laid down under Section 52A of the NDPS Act. In support of his contention, the learned counsel for the petitioner relied upon so many Judgments. All the Judgments were arising out of conviction. Therefore, those Judgments are not applicable to the case on hand. Further he submitted that there are totally two accused in which the petitioner is arrayed as A2. The weight of the contraband is shown as 19.09 Kgs, while disposing the contraband under Section 52A of the NDPS Act. Due to the period from the date of seizure, the weight got reduced since at the time of recovery the contraband was wet with moisture. Further all the accused persons were hailing from Tripura. If the petitioner is released on bail, he will abscond and the entire trial will be stalled. Therefore, the grounds raised by the petitioner can be considered only during trial and not for bail, since the petitioner failed to satisfy the twin conditions as contemplated under Section 37 of the NDPS Act.

5. Considering the facts and circumstances of the case, this Court is not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

20.09.2023

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