



Crl.O.P.No.24987 of 2023

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C.V.KARTHIKEYAN, J.

The petitioner/A1 seeks bail in Crime No.95 of 2023 registered by the respondent police for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C), 25 & 29(1) of NDPS Act. The petitioner had been taken into custody on 02.04.2023.

2. After investigation, final report had been filed and the same had been taken cognizance by the II Additional Special Judge for Exclusive Trial of Cases under NDPS Act at Chennai, as C.C.No.361 of 2023.

3. The learned counsel for the petitioner stated that the seized quantity of ganja was 36 Kgs and asserted that they were four accused and the ganja was seized in possession from all of them and therefore, divided the said quantity into four and therefore, the quantity could be looked at only being intermediate quantity and therefore, sought bail.



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4. It is also contended that A3 and A4 had been granted bail by a learned Single Judge of this Court.

5. The learned counsel for the petitioner placed reliance on two orders of the learned Single Judges of this Court, which he termed as “fantastic orders”.

6. The first one is Crl.O.P.No.9448 of 2023 dated 28.04.2022 (*Mohammed Jalil Khan & Another Vs. The Inspector of Police, NIB CID, Chennai*) wherein, the learned Single Judge had granted bail to the petitioners therein and the observations of the learned Single Judge is that totally 25 Kgs of ganja had been seized from the petitioners therein and the fact was that one of the petitioner had 10 Kgs of ganja and further observation of the learned Single Judge is that there was no material to show that it was jointly possessed by both the petitioners. This particular observation of the learned Single Judge had been pointed out by the learned counsel for the petitioner and therefore it had been stated that the further observation that the rigour of Section 37 of NDPS Act would not apply had been stressed by the learned counsel.



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7. Sofaras the 2nd judgment is concerned, it is Crl.O.P(MD).No.11888 of 2022 dated 16.08.2022 (***R.Vasantha Vs. State Represented by the Inspector of Police, Nagamalai Pudukottai Police Station, Madurai District***) wherein a learned Single Judge of this Court had granted bail to the petitioner therein. It is stated that the 10 Kgs of ganja had been recovered from the petitioner therein and another 12 Kgs of ganja had been recovered from A1. The learned Single Judge had observed that both the quantities had been clubbed as one and therefore stated that it had been so done only to bring it within the ambit of being considered as commercial quantity.

8. It is therefore contended by the learned counsel for the petitioner that the accused in that case had been found in possession of separate bags and therefore, reliance had been made on the above two judgments. Even though the learned counsel for the petitioner termed the two judgments as “fantastic orders”, I am not of that opinion and they are not binding on me.



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9. So far as, a reading of FIR is concerned, the learned counsel for the petitioner stated that nowhere in the FIR had it been stated that 36 Kgs of ganja had been seized from the petitioner herein. A very reading of the FIR states that it had actually been recovered from the petitioner herein/A1. The 2nd accused has a Swift car besides which, all the accused were standing. The car is in the name of the mother of the 2nd accused.

10. This Court had dismissed the bail application of the 2nd accused in Crl.O.P.No.23793 of 2023 by an order dated 30.10.2023.

11. The mere fact that bail had been granted to A3 and A4 would not come to the advantage of the petitioner herein. He had been found in possession of the contraband. As a matter of fact, even in the bail application granting bail, the learned Single Judge had very specifically noted that the contraband had been in the possession of A1 and taking all these factors into consideration, had granted bail to A3 and A4.



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12. In view of all these facts, I am not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition stands dismissed.

01.11.2023

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