



Crl.O.P.No.25173 of 2023

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A.D.JAGADISH CHANDIRA,J.

The Criminal Original Petition has been filed by the petitioner seeking to enlarge her on bail in C.C.No.524 of 2022, pending trial on the file of the Principal Special Court for NDPS Act Cases, Chennai, in connection with R.R.No.01 of 2022 in N.C.B.F.No.48/1/01/2022-NCB/MDS registered on the file of the respondent.

2. The case of the prosecution is that on 08.01.2022, based on the secret information, the respondent and his team conducted a search near Nallur Toll Plaza, Chennai, during which, they found that the accused were illegally transporting 369 kilograms of Ganja in their Bolero vehicle bearing registration No.TN-72-AV-4700 and it was escorted by Maruti Suzuki Swift bearing registration No.TN-10-AL-1816. The respondent, after completion of investigation, filed a final report and the case has been taken up for trial in C.C.No.524 of 2022 on the file of the Principal Special Court for NDPS Act Cases, Chennai. Hence the case.



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3. Learned counsel appearing for the petitioner submitted that this is the fourth application for bail and the earlier bail applications filed by the petitioner in Crl.O.P.Nos.15096, 18487 of 2022 & 3892 of 2023 were dismissed by this Court vide orders dated 07.07.2022, 30.08.2022 & 08.03.2023 respectively. He further submitted that this Court while dismissing the earlier bail application had directed the trial Judge to complete the trial as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of that order, however, the trial has not been completed so far. He also submitted that there is a violation of Section 52A of NDPS Act and the petitioner is suffering incarceration from 08.01.2022, therefore, he sought for grant of bail to the petitioner.

4. The respondent has filed a detailed counter.

5. Learned Special Public Prosecutor for NCB cases appearing for the respondent submitted that it is a case, where the petitioner (A2) along with other accused was illegally transporting 369 Kilograms of Ganja in their car. He also submitted that this Court, taking into consideration the entire facts



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and the materials available on record, had dismissed the earlier bail applications filed by the petitioner, stating that the petitioner has not satisfied the twin conditions required under Section 37 of the NDPS Act and there is no change of circumstances. He further submitted that as far as the violation of Section 52A of NDPS Act is concerned, it is a matter for trial, which can be adjudicated only by adducing all evidence before the trial Court. He also submitted that as per the details given by the State Police, it is seen that the petitioner has got two previous cases and out of which, one was registered for the offence under NDPS Act. He further submitted that the delay in the trial is not on the part of the prosecution and since, the petitioner's counsel before the trial Court is not cross examining the witnesses, there is a delay in the trial. Therefore, he vehemently opposed for grant of bail to the petitioner.

6. Heard the learned counsel for the petitioner and the learned Special Public Prosecutor for NCB cases appearing for the respondent and perused the materials available on record.



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7. It is the case where the petitioner along with other accused was indulged in transporting 369 kilograms of Ganja, which is a commercial quantity and this Court, taking note of the entire materials and finding that the petitioner has not satisfied the conditions required under Section 37 of NDPS Act, had dismissed the earlier applications for bail with a direction to complete the trial as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of the order dated 08.03.2023. However, it is seen from the submissions made by the learned Special Public Prosecutor that there is no delay on the part of the prosecution and only the accused are causing delay in the trial.

8. Taking into consideration the above facts and circumstances of the case and the submissions made by the learned counsel on both sides and finding that the accused are delaying the progress of trial by not cross examining the witnesses and also considering that there is no change of circumstances, this Court is not inclined to grant bail to the petitioner.



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9. Accordingly, the Criminal Original Petition stands dismissed.

However, the trial Court is directed to comply with the earlier directions passed by this Court.

13.12.2023

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