



Crl.O.P.No. 26090 of 2023

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T.V.THAMILSELVI, J.

The petitioner, who was arrested and remanded to judicial custody on 28.07.2021 for the alleged offence under Sections 8(c), 20(b) (ii)(B), 22(c), 25 and 29(1) of NDPS Act in Crime No.2362 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 28.07.2021, at about 09.00 a.m., on a secret information, when the respondent intercepted and conducted search on the vehicle of petitioner nearby burial ground of Moolakothalam. On search, they found 30 boxes of each having 300 tablets and in total 9000 tablets of Nitroviat-10 from the petitioner along with other accused and seized the same. Hence, the complaint.

3. The learned counsel for the petitioner submitted that on the confession statement of A1, who is a drug dealer and selling drugs in Chennai, the petitioner was implicated in this case and his name is not



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mentioned in the F.I.R. He would submit that the contraband seized from them is not a commercial quantity and it is in between quantity. He would also submit that the respondent failed to take any sample for chemical test. In support of his contentions, he cited the judgement of Apex Court, wherein it is observed that the standing order cannot be flouted and in the absence of substantial compliance of the standing order, adverse interference to be drawn against the prosecution. He would submit that there is no specific overtact attributed against the petitioner. He would also submit that the property recovered from this petitioner was marked as P4 and the chemical samples was not taken immediately after his arrest. He would submit that he has not at all committed any offence as alleged by the respondent police and he is no way connected with the occurrence. He would further submit that the investigation is almost completed and that the petitioner has been suffering incarceration for more than two years and three months from 28.07.2021 and this is the 8th bail petition before this court. He would submit that all the other co-accused were released on bail. Hence, he prayed to grant bail to the petitioner.



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4. The learned Government Advocate (Crl. Side) appearing for respondent would submit that totally, there are 5 accused involved in this case and the petitioner is arrayed as A1 and from him, the contraband was seized. He would submit that the property recovery from this petitioner is 1500 tablets, which is a commercial quantity and it attracts Sec.37 of NDPS Act. He would submit that co-accused A2, A4 and A5 were arrested and released on bail. He would submit that he is having four previous cases and he is native of Kerala. He would submit that now the trial was commenced and the case is posted for framing of charges. He would submit that A4 was released on bail and subsequently, he has not appeared, due to which, a non-bailable warrant was issued. He would submit that now discharge petition filed by the petitioner is pending for enquiry. Moreover, the other accused, who was released on bail is also absconding and hence, there is a delay in the trial proceedings. He would also submit that if he is released on bail, he will tamper the witnesses and hamper the investigation. Hence, he vehemently opposed to grant bail to the petitioner.



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5. Considering the facts and circumstances of the case and the submissions made by both counsel and also considering gravity of offence committed by the petitioner by recovering the contraband, which is a commercial quantity and now the trial was commenced and the case is posted for framing of charges and the fact that the co-accused/A4, who was released on bail not appearing before the trial court as per the prosecution, due to which, there is a delay in conducting the trial proceedings and also considering the fact that if he is released on bail, there is possibility of tampering the witnesses and hampering the investigation, this Court is not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed. However, the petitioner is directed to cooperate for conducting trial proceedings and as the accused are in custody for more than two years, the trial court is directed to complete the trial and dispose the case as expeditiously as possible.

23.11.2023

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