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Crl.O.P.No.25760 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioner (A3) who was arrested and remanded to judicial custody on 05.11.2020 in C.C.No.131 of 2021 pending trial on the file of the learned II Additional Special Judge, Special Court for EC & NDPS Act Cases, Chennai, in connection with Crime No.31 of 2020 registered for the offences punishable under Sections 8(c), 20(b)(ii)(C), 25 and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985, seeks bail.

2. The case of the prosecution is that on receipt of a secret information about the illegal transportation of Narcotic Substance, the respondent went to the place of occurrence, wherein, they found that the accused were illegally transporting 205 kilograms of Ganja. Out of which, 51 kilograms of Ganja was seized from the petitioner herein (A3). Thereby, the case came to be registered and after completion of investigation, final report has been filed and the case has also been taken up for trial in C.C.No.131 of 2021,



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on the file of the learned II Additional Special Judge, Special Court for EC & NDPS Act Cases, Chennai.

3. Learned counsel appearing for the petitioner submitted that this is the second application for bail filed by the petitioner before this Court and this Court had dismissed the earlier bail application filed in Crl.O.P.No.8646 of 2023 vide order dated 14.06.2023, with a direction to conduct the trial on day to day basis and deliver the judgment as expeditiously as possible preferably within a period of two months from 20.06.2023, however, there is no progress in the trial. He also submitted that the petitioner is suffering incarceration from 05.11.2020 and thereby, he seeks bail for the petitioner on the ground of long incarceration.

4. The respondent Police has filed the detailed counter.

5. Learned Government Advocate (Crl.Side) submitted that after completion of investigation, the case has been taken up for trial in C.C.No.131 of 2021, on the file of the II Additional Special Court for exclusive trial of



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Cases under EC & NDPS Act Cases, Chennai. He further submitted that though the regular Judge is not there, the trial is being conducted by the Judge who is now in in-charge of the regular Court. He also submitted that there are 6 witnesses in this case and all the witnesses have been examined. He also submitted that the petition filed by the first accused under Section 311 Cr.P.C seeking to recall the witnesses has been allowed and thereby, the case now stands posted on 24.11.2023 for recalling the witnesses. Therefore, the respondent would be able to produce the witnesses on 24.11.2023 before the trial Court.

6. He further submitted that based on the direction issued by this Court while dismissing the earlier bail application on 14.06.2023, the prosecution has effectively conducted the trial, whereas, the accused had filed the petition under Section 311 Cr.P.C seeking to recall the witnesses and caused delay in trial. He also submitted that the examination of witnesses will be completed on 24.11.2023 and therefore, at this stage if bail is granted to the petitioner, there is every possibility of the petitioner to abscond which would derail the progress of trial. Thereby, he sought for dismissal of the petition.



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7. Heard the learned counsel for the petitioner, learned Government Advocate (Crl.Side) for the respondent and perused the materials available on record including the final report.

8. It is the case, where, the petitioner along with other accused was found to be in illegal possession of 205 kilograms of Ganja, out of which, 51 kilograms of Ganja, which is a commercial quantity, was recovered from this petitioner alone. Thereby, this Court, taking into consideration the huge quantity of contraband of involved in this case, had dismissed the earlier application with a direction to the trial Judge to complete the trial on day to day basis and deliver the judgment as expeditiously as possible, preferably, within a period of two months from 20.06.2023. However, it is stated by the prosecution that the prosecution has examined all the witnesses and the case stands posted for cross examination of investigating officer and also for recalling the witnesses on the instance of the first accused and further stated that the prosecution is not responsible for the delay in the trial.



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9. In view of the above, finding that there is no delay on the part of the prosecution and only the accused are responsible for the delay in trial and further finding that the petitioner also has not satisfied the conditions required under Section 37 of NDPS Act and also considering that the trial is at the fag end, this Court is not inclined to grant bail to the petitioner.

10. Accordingly, this Criminal Original Petition stands dismissed.

20.11.2023

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