



Crl.OP.No.32354 of 2022

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G.K.ILANTHIRAIYAN, J.

The petitioner, who was arrested and remanded to judicial custody on 18.07.2020 at the hands of the respondent police for the alleged offences punishable under Sections 8(c), 20(b)(ii)(c), 25 and 29(1) of NDPS Act, in Crime No.19 of 2020, seeks bail.

2. The case of the prosecution is that on 18.07.2020, the petitioner and other accused were found in illegal possession of 105 Kg of ganja. Hence the complaint.

3. The learned counsel for the petitioner submitted that there are totally five accused in which the petitioner is arrayed as A2. The petitioner was arrested and remanded to judicial custody on 18.07.2020. He further submitted that there are complete contradiction by P.W.1 in respect of seizure, sending samples for analysis and Ex.D1 to Ex.D3. He also pointed out that in the confession statement recorded from the accused persons, they stated that the ganja was purchased from Vizag. However during cross examination of P.W.1 viz., the Investigating Officer, he admitted that the contraband was not brought from the Vizag. Only because of the false case, he failed to investigate the case



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to that aspect. Therefore, it is completely false case foisted as against the petitioner. Therefore, there are lot of contradictions and there are grounds for acquittal and as such the petitioner cannot be put into prison that too for about two years. He further submitted that the petitioner was arrested and remanded to judicial custody on 18.07.2020 and incarcerated for the past two years. Hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that this is the second bail application filed by the petitioner and this Court already dismissed the earlier bail petition. Further all the points raised by the learned counsel appearing for the petitioner can be considered during the trial and not in bail petition. Whatever the contradiction in the deposition of P.W.1, that can be considered only by the trial Court during the trial. Hence he vehemently opposed to grant bail to the petitioner.

5. There are five accused in which the petitioner is arrayed as A2. A1 & A3 were in conscious possession of 74 kgs of Ganja and it is a commercial quantity. Totally 105 Kgs of Ganja were recovered from all the accused persons. Though, the learned counsel for the petitioner pointed out so many contradictions in the deposition of P.W.1, it cannot be considered in the bail



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petition and it can be considered only during the trial by the Trial Court. That apart, due to Covid 19, the entire trial has been stalled and now only the trial has begun. Admittedly, the petitioner and others were found in possession of alleged contraband weighing 105 Kg of Ganja and and it is commercial quantity. There are materials to attract the offence as against the petitioner herein and the petitioner failed to satisfied the twin conditions under Section 37 of the NDPS Act. Further, this Court already dismissed the earlier bail petition filed by the petitioner and there is no change in circumstances. Taking consideration of the above facts and circumstances of the case, this Court is not inclined to grant bail to the petitioner.

6. Accordingly, this Criminal Original Petition is dismissed.

13.02.2023

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