



Crl.O.P.No.32318 of 2022

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G.K.ILANTHIRAIYAN, J.

The petitioner, who was voluntarily surrendered before the learned XV Metropolitan Magistrate, George Town, Chennai on 07.02.2022 for the alleged offences punishable under Sections 8(c) r/w 20(b)(ii)(B), 22(c), 25 & 29(1) of NDPS Act 1985 and Sections 147, 148 of IPC in the C.C.No.38 of 2022 (On the file of Learned Special Judge, I Additional Special Court for Exclusive Trial of Cases Under NDPS Act, Chennai) connected with Crime No.1212 of 2021 on the file of the respondent police, (H-3, Tondairpet Police Station), seeks bail.

2. The case of the prosecution is that on 19.07.2021, the petitioner and 4 others were found in possession of Nitrovit – 10 totally 100 grams and 1.500 Kgs of Ganja. The petitioner and another accused person escaped from the spot after seeing the respondent police and the property was seized from A1 & A2. In this case, charge sheet was already filed and the same is pending in C.C.No.38 of 2022 before the learned Special Judge I Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai.



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3. The learned counsel for the petitioner submitted that there are totally five accused, in which the petitioner is arrayed as A5. Even according to the case of the prosecution, there was no recovery from the petitioner. Only on the confession statement of the co-accused, he has been falsely implicated in this case. In fact, after the confession, he himself surrendered before the concerned Court and thereafter remanded to Judicial custody. Even as per the FIR, the alleged drug was recovered from A1 and A2. Therefore, no offence is made out as against the petitioner as alleged by the prosecution. He has been implicated as an accused only on presumption and there is absolutely no material to connect the petitioner along with the other accused persons. He had surrendered on 07.02.2022. Till now, he is in incarceration. Though, the petitioner involved in other cases, the similarly placed other accused i.e, A4 was granted bail by this Court. Hence, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that all the accused persons were in possession of 1.500 Kgs of Ganja and 1125



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Nitravet – 10 tablets which contains 876 grams, which comes under commercial quantity and thereby, Section 37 of NDPS Act is applicable.

He further submitted that there is no change of circumstances after the previous dismissal orders passed by this Court on merits. Hence, he vehemently opposed to grant bail to the petitioner.

5. A perusal of the counter filed by the respondent reveals that there are totally 5 accused, in which, the petitioner is arrayed as A5. Though, the petitioner has been implicated on the confession statement of A1, the petitioner was also present along with A1 and A2 at the time of search. Unfortunately, the petitioner escaped from the scene of occurrence. Apart from the present case, the petitioner had involved in the following cases,

<i>S.No</i>	<i>Police Station, Crime Number Offences Under Section</i>	<i>Stage of Case</i>
1.	H-3 P.S.Cr.No 260 of 2015 U/S 341, 294(b), 506(ii) IPC	Further Action Dropped
2.	H-3 P.S.Cr.No 569/2015 U/S 379 IPC	Action Dropped
3.	H-3 P.S.Cr.No 824/2016 U/S 341,307, 506(ii) IPC	Pending Trial



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<i>S.No</i>	<i>Police Station, Crime Number Offences Under Section</i>	<i>Stage of Case</i>
4.	H-3 P.S.Cr.No 1279/16 U/S 341, 384, 506(ii) IPC	Action Dropped
5.	H-3 P.S.Cr.No 1286/16 U/S 341,294(b), 336, 427, 307, 506(ii) IPC	Under Investigation
6.	H-3 P.S.Cr.No 1811/2017 U/S 341,294(b), 384, 307, 506(ii) IPC	Pending Trial
7.	H-3 P.S.Cr.No 22/2018 U/S 341,294(b), 336, 427, 392, 397, 506(ii) IPC	Pending Trial
8.	H-3 P.S.Cr.No 479/2018 U/S 341, 294(b), 307 r/w 397, 506(ii) IPC	Pending Trial
9.	H-3 P.S.Cr.No 27/2018 B.No.43/DcWPT/2018, dated 18.06.2018 for 281 days	
10.	H-3 P.S.Cr.No 806/2018 U/S 143, 294(b), 307, 506(ii) IPC & 3 of Explosive Substances Act	Pending Trial
11.	M4 Redhills Ps Cr.No.3737/2020 u/s 395 r/w 397 IPC	Under Investigation
12.	B-1 North Beach P.S.,Cr.No.700/20105, u/s 294(b), 323, 307, 506(ii) IPC	Under Investigation
13.	N-4 Fishing Harbour P.S. Cr.No.843/2021, u/s 147, 148, 294(b), 307, 323, 341 IPC	Under Investigation
14.	H-5 P.S.Cr.No 1999/2021 U/S 341, 324, 294(b), 506(ii) IPC	Under Investigation

6. That apart, the petitioner is an habitual offender and history



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sheet rowdy in H.S.No.02 of 2018. Therefore, the petitioner was also under conscious possession of the contraband along with A1 and A2. Though, A4 was granted bail initially by this Court, subsequently it was cancelled.

7. Taking into consideration the facts and circumstances of the case and the petitioner has failed to fulfill the twin conditions as contemplated under Section 37 of the NDPS Act and that there is no change of circumstances, this Court is not inclined to grant bail to the petitioner.

8. Accordingly, this Criminal Original Petition is dismissed.

23.01.2023

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