



WEB COPY



Crl.O.P.No.1979 of 2023

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A.D.JAGADISH CHANDIRA,J.

The petitioner, who was arrested and remanded to judicial custody on 13.12.2021, for the offences punishable under Sections 8(c) r/w 20(b)(ii)(c), 22(c), 23, 28 & 29 of NDPS Act, 1985, and under Section 135 of the Customs Act, 1962, in R.R.No.40/2021, on the file of the respondent, seeks bail

2. The case of the prosecution is that on 09.12.2021, the accused had attempted to smuggle 99 grams of Methamphetamine hydrochloride by concealing it in her rectum. The respondent has seized the contraband and arrested the accused. Hence the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and she has been falsely implicated in this case. He further submitted that the respondent has not followed the procedure as contemplated under NDPS Act, thereby the petitioner is entitled for grant



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of bail. He also submitted that the petitioner is in custody from 10.12.2021, therefore, he prayed for grant of bail to the petitioner.

4. Learned Special Public Prosecutor for NCB cases appearing for the respondent submitted that the petitioner had attempted to smuggle 99 grams of Methamphetamine hydrochloride by concealing it in her rectum and she was arrested, after following the due procedures and the statement was also recorded. He further submitted that the seized contraband is a commercial quantity, for which, the petitioner has to satisfy the conditions required under Section 37 of NDPS Act, whereas, in this case, the petitioner has not satisfied the twin conditions required under Section 37 of NDPS Act. He also submitted that final report has been filed and the case has been taken up on the file in C.C.No.224 of 2022. However, he opposed for granting bail to the petitioner stating that she is not entitled for grant of bail.

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



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6. It is a case where the petitioner has attempted to smuggle 99 grams of Methamphetamine hydrochloride to Srilanka, by concealing it in her rectum and the seized contraband is a commercial quantity. Further, the submission made by the learned counsel for the petitioner that the respondent has not followed the mandatory procedures is a ground, which is to be used at the time of trial and it is a matter for trial.

7. Taking into consideration the above facts and circumstances of the case and the submissions made by either side of the parties, this Court is of the opinion that the petitioner has not satisfied the twin conditions required under Section 37 of NDPS Act. Therefore, this Court is not inclined to grant bail to the petitioner.

8. Accordingly, the Criminal Original Petition stands dismissed.

14.03.2023

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