



CrI.O.P.No.27849 of 2023

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WEB CO **C.V.KARTHIKEYAN, J.**

The petitioner seeks bail in Crime No.47 of 2023, registered under Sections 8 (c) and 20 (b) (ii) (B) of Narcotic Drugs and Psychotropic Substances Act, 1985. The petitioner had been remanded to custody on 09.10.2023.

2.The case of prosecution is that on 09.10.2023, at 01.00 a.m., in the early morning, the respondent went to Jolarpet Railway Station and boarded S1 coach in Alapuzha Express running between Thanbath to Alapuzha in Kerala and inspected the passengers. While the train was crossing the Karuppur Railway Station, the petitioner was found carrying black colour shoulder bag containing 5 Kgs of Ganja. Thereafter, the petitioner was arrested and remanded to judicial custody. In the FIR, it had been very specifically stated that the petitioner was given an option as to whether he should be searched in the presence of a Magistrate or before a Gazetted Officer. On exercising his option, he was searched and the contraband had been seized.



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3.The learned counsel for the petitioner states that though the respondent had got into the train at 12o'clock in the mid night, they found the petitioner only at 07.15 a.m., and they arrested and took him to the jurisdictional police station and had remanded him to custody. It is complained that there was no compliance of the requirements under Section 50 NDPS Act. It is also stated that the petitioner does not know Tamil and therefore, he cannot understand the statements made by the respondent.

4.At this stage, it must be stated that these are aspects which will have to be examined on completion of the investigation. So far the seizure under Section 50 NDPS Act is concerned, it is seen that the contraband had been seized from the black colour shoulder bag in the direct possession of the petitioner inside the railway compartment. Both the petitioner and the bag were there in the railway compartment and the bag was in the constructive custody of the petitioner herein. The petitioner had been given an option about the requirements of search and



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he had exercised the option. There is a complaint that the petitioner did not understand what the respondent had stated. They had communicated to him and he had understood the same and exercised the option.

5.Let the investigation proceed further. At this stage, I am not inclined to grant bail to the petitioner herein. Accordingly, this Criminal Original Petition stands dismissed.

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13.12.2023



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