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Crl.O.P.No.3734 of 2024

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C.V.KARTHIKEYAN, J.

The petitioners / A4 & A5 who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 276, 353, 294(b) and 506(i) of IPC and Section 8(c), 20(b)(ii)(A) of NDPS Act in Crime No.301 of 2023, seek anticipatory bail.

2.It is the case of the prosecution that the respondent had intercepted A1 with possession of 15 grams of Ganja and 40 numbers of TOPCYNTA 100 mg tablets and A2 with possession of three strips of TOPCYNTA 100 mg tablets and A3 with possession of three strips of TOPCYNTA 100 mg tablets. Thereafter, they had given the confession that they had purchased the said tablets through online, from these petitioners.

3.It is stated by the learned Senior Counsel on behalf of the petitioners that A4 has a Pharmacist licence and therefore since these tablets are also available online, there cannot be any allegation of offence being committed by A4.



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4. But one fact which will have to be further investigated is selling of these tablets in online to strangers like A1, A2 and A3 who are residents of Tamil Nadu. The petitioners herein have their normal place of business in Mumbai at Maharashtra.

5. The learned Government Advocate (CrI. Side) for the respondent, had placed reliance on Section 80 of NDPS Act, which states that the provisions of the NDPS Act will be in addition to and not in derogation of the provisions of Drugs and Cosmetics Act, 1940.

6. The learned Senior Counsel also stated that the TOPCYNTA tablet is not a scheduled drug as stated under the NDPS Act.

7. But however, the laboratory report is still awaited. Investigation has not yet been completed. The fact that sales had been made through online and whether such sales is permissible or not again will have to be investigated. It has also to be investigated as to who are the others to whom the petitioners had sold the drugs online and what are



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the other drugs they had sold. All these aspects required further investigation.

8.In view of all these facts, let further investigation be conducted and it is also stated that A1, A2 and A3 had been released on bail, but the role of these petitioners will have to be further examined and investigated. Since the investigation is at nascent stage, I am not inclined to grant anticipatory bail to the petitioners herein. Accordingly, this Criminal Original Petition stands dismissed.

05.03.2024

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