



Crl.O.P.No.4840 of 2024

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T.V.THAMILSELVI, J.

The petitioner, who was arrested and remanded to judicial custody on 11.11.2021 for the alleged offence under Sections 8(c) r/w 20(b)(ii)(c), 28 and 29 of NDPS Act as amended under Sec.20(b)(ii)(c), 28 and 29 of NDPS Act in Spl. C.C.No. 54 of 2022, pending trial on the file of Addl. District and Sessions Judge, Special Court for EC and NDPS Cases, Salem in NCB F. No.48/1/06/2021-NCB/MDS, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 09.07.2021, on a secret information about illegal transportation of ganja from Andhra Pradesh, the respondent police intercepted the petitioner's vehicle at Pallikonda Toll Plaza, Vellore and on search, they found the petitioner along with other accused were illegally trafficking 360.950 kgs. of ganja and seized the same. Hence, the complaint.



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3. The learned counsel for the petitioner submitted that there is no specific overtact attributed against this petitioner and he was falsely implicated in this case, since because the truck belong to him, wherein the alleged contraband was illegally transported to Andhra Pradesh. He would submit that he engaged the driver to transport the groundnut, except that he was not known about the alleged contraband and only on that basis, the driver took the vehicle from Tuticorin to Andhra Pradesh, from there, he returned back with contraband as per prosecution. Therefore, he pleaded innocence and he is in custody for more than 2 years 4 months and so far, there is no progress in the trial. He would submit that he has not at all committed any offence as alleged by the respondent police and he is no way connected with the occurrence. He would further submit that the investigation is almost completed. To support his contentions, he relied on the ratio laid down in the authority held by the Apex Court reported in **2023 LiveLaw (SC) 260** in the case of **Mohd. Muslim @ Hussain vs. State (NCT of Delhi)**, wherein it has been held as follows :-

“Narcotic Drugs and Psychotropic Substances Act, 1985,



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Sec.37 – Effect of delay in trial – grant of bail on ground of undue delay in trial not fettered by Sec.37 – imperative of Sec.436A of Code of Criminal Procedure Act – Requires inter alia the accused to be enlarged on bail if the trial is not concluded within specified periods.....”

By relying the aforesaid authority, learned counsel for petitioner prayed to grant bail to the petitioner.

4. The learned Special Public Prosecutor appearing for respondent would submit that totally, there are 4 accused involved in this case and the petitioner is arrayed as A4. He would submit that there is an illegal transportation of 360.950 kgs. of ganja in the truck and the petitioner is the owner of vehicle. He would also submit that the further investigation reveals the fact of illegal trafficking from the particulars collected in respect of telephone calls when he called A1 for 41 times during the relevant drug transaction period and the mobile number is in his own name, however there is no recovery from this petitioner. Furthermore, he called A1 two times during the relevant period of seizure. He would submit that though the petitioner was the owner of the lorry, statement of A1, A2 and A3 clearly



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indicates that 25 parcels out of seized drug was intended to be delivered through the petitioner himself, which was accepted by the petitioner during his confessional statement recorded under Sec.67 of NDPS Act. He would submit that he is a main person to transport the contraband from Andhra Pradesh. He would also submit that if he is released on bail, he will tamper the witnesses and hamper the investigation and inspite of direction issued by this court, there is no progress in the trial. Hence, he vehemently opposed to grant bail to the petitioner.

5. Considering the facts and circumstances of the case and the submissions made by both counsel and as per the objection raised by the prosecution, it reveals that the petitioner has contacted A-3 through his mobile phone for more than 41 times during the relevant drug transaction period and according to him, only as per the confession alone, he was arrayed as 4th accused in this case and further investigation reveals the fact of illegal trafficking from the particulars collected in respect of telephone calls when he called A1 during the relevant period of seizure and the petitioner has also admitted the fact that nearly 25 parcels out of the seized



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drug was intended to be delivered through the petitioner himself, thereby based on the prima facie materials, he was implicated in this case. Therefore, on considering the gravity of offence, this court is not inclined to grant bail to the petitioner. The authority relied on by the learned counsel for petitioner reported in **2023 LiveLaw (SC) 260** in the case of **Mohd. Muslim @ Hussain vs. State (NCT of Delhi)**, is not applicable to the facts of instant case. Accordingly, this Criminal Original Petition is dismissed. Furthermore, the learned counsel for petitioner would submit that nearly about two years, he is in judicial custody and inspite of direction issued by this court, there is no progress in the trial. By way of reply, the learned Special Public Prosecutor would submit that in the last hearing, the case against A5 and A6 was split up and in respect of other accused, the case is posted for hearing on 04.04.2024, which would reveals that there is a progress in the trial. Accordingly, the incharge trial judge is directed to complete the trial and dispose the case within a period of six months from the date of receipt of copy of this order finally.

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