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Crl.O.P.No.8234 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.The learned counsel for the petitioners pointed out that the quantity of ganja seized only about 15 grams and that it is not commercial quantity.



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4.The further case of the prosecution is that that there was online selling of ganja by the petitioners and that investigation will have to be done as to the persons to whom the said ganja had been forwarded through online by the petitioners herein.

5.The learned counsel placed reliance on the judgment of a learned Single Judge of the Delhi High Court in ***Amit Ranjan Vs. Narcotics Control Bureau, Delhi, Bail Appln. No.1189 of 2020*** dated **23.05.2022**. The said judgment had examined the issue of bail to be granted after the accused had been arrested and remanded. The present petition is seeking anticipatory bail.

6.The second judgment which the learned counsel for the petitioners placed reliance is on the judgment of the Hon'ble Supreme Court in State by the ***Inspector of Police Vs. B.Ramu in SLP (Crl.) No.8137 of 2022*** dated **12.02.2024**. As a matter of fact, a learned Single Judge of this Court had granted anticipatory bail to the respondent therein. The Hon'ble Supreme Court had come down very heavily on the



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grant of such anticipatory bail and had allowed the appeal preferred by State by the Inspector of Police and had set aside the order granting anticipatory bail. In paragraph No.11, the Hon'ble Supreme Court had stated as follows:

“11.In case of recovery of such a huge quantity of narcotic substance, the Courts should be slow in granting even regular bail to the accused what to talk of anticipatory bail more so when the accused is alleged to be having criminal antecedents.”

7.It is thus seen that the Hon'ble Supreme Court had in fact stated that bail itself cannot be granted and had wondered how anticipatory bail could have been granted by the learned Single Judge in that particular case.

8.Both the judgments cited by the learned counsel have no relevant to the facts of the case.



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9. One another judgment which relied on by the learned counsel though a copy was not forwarded is the judgment of the Hon'ble Supreme Court reported in *(2021) 4 SCC 1, Tofan Singh Vs. State of Tamil Nadu* which is also a case went from the Madras High Court and related to Section 67 of the NDPS Act. While examining Section 67 of NDPS Act, the Hon'ble Supreme Court had made it very clear that any statement recorded by the police is inadmissible in law even though it could have been recorded under Section 67 of the NDPS Act, which is the special Act. The admissibility was placed para materia with any recording of the confession statement under Section 24 of the Indian Evidence Act, in general, it is inadmissible.

10. But that can never happen in this particular case, since the prosecution will have to conduct further investigation about the persons to whom the present petitioners had sent ganja through online and detailed investigation will have to be done about the source from which the petitioners herein had obtained ganja and whether it is an all India



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trade in online in ganja or restricted only to the State of Tamil Nadu.

These are cases which will have serious ramification and merely because the ganja seized is less than commercial quantity would not imply that it is the only ganja available. It had been forwarded through online and naturally investigation will have to be done in all aspects.

11.The learned counsel for the petitioners also forwarded the medical report of one of the accused, Vinit Raju Jain and it is stated that he is quite badly down with serious medical ailment. If he is taken into custody I am confident that the respondent would take every care to provide the best medical treatment available for him. But that is an hypothetical situation, since the petitioners are avoiding the judicial process.

12.Observing as above, this Criminal Original Petition stands dismissed.

23.04.2024

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