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Crl.O.P.No.14407 of 2024



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T.V.THAMILSELVI, J.

This Criminal Original Petition has been filed by the petitioner/A3, who was arrested and remanded to judicial custody, seeking bail in C.C.No.48 of 2017 pending trial on the file of the II Additional Special Court for exclusive trial of cases under NDPS Act, Chennai, in connection with F.No.DRI/CZU/VIII/48/ENQ-1/INT-48/2016, registered for the alleged offences punishable under Sections 8(c), 9(A), 21(c), 23(c), 25(A), 28 & 29 of Narcotic Drugs and Psychotropic Substances Act, 1985.

2. Learned counsel appearing for the petitioner submitted that initially, the petitioner was arrested on 29.11.2016 in connection with the present case and he enlarged on bail by this Court vide order dated 25.06.2018 in Cr.R.C.No.1575 of 2017, thereafter, against the order passed by this Court, the respondent had preferred an appeal before the Hon'ble Apex Court in SLP(Crl).No.10741 of 2018 in Crl.A.No.2022 and the same was ordered with a direction to the petitioner to surrender before the trial Court and shall make a fresh application for bail before



the trial Court. Pursuant to the order passed by the Hon'ble Apex Court, the petitioner surrendered before trial Court on 21.03.2022 and from then, the petitioner has been suffering incarceration.

3. He further submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that the petitioner was arrested only based on the confession statement recorded from the other accused. He also submitted that the petitioner is only connected to the seizure of 23.900 kilograms of Pseudoephedrine and even in his statement, he has not stated about the seizure of Alprazolam. He further submitted that the petitioner is one among who used to assist in clearing the consignment related to Pseudoephedrine and it would not attract Section 37 of NDPS Act since it is only a controlled substance. He also submitted that the petitioner is suffering incarceration for a long period and there is no progress in the trial proceedings. Therefore, he prayed for bail stating that, the petitioner is ready to abide by any stringent conditions that may be imposed by this Court.

4. The respondent has filed a detailed counter.

5. Learned Special Public Prosecutor appearing for the respondent



submitted that based on the specific information, the respondent had recovered and seized the speed post containing 23.900 kilograms of Ephedrine Hydrochloride, a psychotropic substance, valued about Rs.4,78,00,000/- (in international Market).

He further submitted that the specific overt act against the petitioner is that he had knowingly involved and arranged for export clearance of the consignments containing narcotic drugs of commercial quantity for monetary consideration.

6. The petitioner herein himself had confessed, under the provisions of Section 67 of NDPS Act, that he himself in conspiracy with A1 has smuggled the narcotic drugs in the form of powder and tablets on three occasions and the statement was not recorded from him under force. The averments made by the petitioner that he has been implicated only in respect of seizure of pseudo ephedrine is not maintainable in law, since the petitioner has arranged for clearances of the consignments of illicit export from India to Malaysia, which are supplied by A5 and A6. Also, the first accused, in his confession statement, had stated that the petitioner herein has taken care of the exports for the past 2 ½ years, which would show the participation of the petitioner. In the light of the ruling held by the Hon'ble Apex Court in the case of *Narcotics Control Bureau vs. Mohit Agarwal*, the averments made by the petitioner that he could be attributed to



charges only in respect of controlled substances are not maintainable in law.

Therefore, he prayed for dismissal of the petition stating that, the petitioner is entitled for bail.

7. He further submitted that the case was also taken up for trial in C.C.No.48 of 2017 pending trial on the file of the II Additional Special Court for exclusive trial of cases under NDPS Act, Chennai. Therefore, if the petitioner is released on bail, there is every possibility of him absconding and may hamper the evidence and evade from the trial proceedings. Hence, he opposed to grant bail to the petitioner.

8. Heard both sides and perused the materials available on record including the counter filed by the respondent.

9. Taking into consideration the facts and the submissions made by the learned counsel appearing on both sides, taking note of the fact that the petitioner has failed to satisfy the twin conditions required under Section 37 of NDPS Act and also considering the conduct of the petitioner and the nature of the offence committed by the accused, this Court is not inclined to grant bail to the petitioner.



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10. Accordingly, the Criminal Original Petition stands dismissed. However, the learned trial Judge is directed to complete the trial as early as possible, without giving any unnecessary adjournments.

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