



CrI.O.P.No. 23878 of 2024

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T.V.THAMILSELVI, J.

The petitioner, who was arrested and remanded to judicial custody on 12.11.2023 for the alleged offence under Sections 8(C) r/w 21(c), 23(c), 28 and 29 of NDPS Act, in R.R.No. 56 of 2023 in NCB F.No.DRI/CZU/VIII/48/Enq-1/Int-38/2023, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was recruited as International Representative in Jacobs Construction, a company based in U.S.A. based on Letter of Appointment dated 18.08.2022 and the nature of work is to attend board meetings as a representative of the said concern in various other countries and to collect samples of art work for decoration and display from various other countries. While so, on 12.11.2023, a secret information from a reliable source, the respondent police conducted a search in Chennai International Airport and on search, they said to have found the petitioner was involved in transporting 3.652 kgs. of heroine from Bangkok,

Page 1 of 9



CrI.O.P.No. 23878 of 2024

Thailand to Chennai and seized the same. Hence, the complaint was registered against the petitioner.

3. The learned counsel for the petitioner submitted that the petitioner has been falsely implicated in this case as if he was involved in transporting 3.652 kgs. of heroine from Bangkok, Thailand to Chennai, in fact, he was recruited as International Representative in Jacob Construction company based in U.S.A. on 18.08.2022. The nature of work was allotted to him is to attend board meetings as a representative of the said concern. Accordingly, he used to work from India and will travel abroad for meetings as a business trip. All the travel expenses was arranged by the company with the assistance of Kay Kay Consultancies. While so, on 24.10.2023, the petitioner was informed that his upcoming business trip is to Vietnam and the same was rescheduled to Lao. So, on 03.11.2023, tickets were issued to him and as per the agreed terms, he was given allowance including food accommodation etc. He went to Laos and attended the meeting and the return ticket was issued to him from Bangkok to Chennai on 11.11.2023. At that time, he was informed that one of the office representative viz.,



CrI.O.P.No. 23878 of 2024

Mr.Nicholas would hand over an office luggage to him and he has to bring the same to the company in Delhi. So, the company sent a communication to him and tickets were also issued. Accordingly, he reached Chennai, wherein the officials of airport authority have conducted a search and informed to him that there was a suitcase cabin, which contains some unnatural substance in the official luggage carried on by him, but he was not aware about the secret cabin in the said suitcase. However, he was falsely implicated in this case. The learned counsel would also submit that he is no way connected with the alleged offence nor he was not aware of the alleged contraband. He would also submit that there is no recovery from him and without proper enquiry, he was implicated in this case. He would also submit that this is the second petition seeking for bail and he is in judicial custody for more than one year from 12.11.2023, but there is no progress in the trial. He would submit that the investigation is almost completed and he would abide by any condition that may be imposed by this court. Hence, he prayed to grant bail to the petitioner.

4. The learned Special Public Prosecutor appearing for respondent raised strong objections stating that this petitioner is having holder of Indian



CrI.O.P.No. 23878 of 2024

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passport and travelled from Bangkok, Thailan to Chennai in Thai Airlines on carrying some NDPS contraband item in his checked-in baggage and he was intercepted. On search, 3652 kgs. of white coloured substance in powder/granulated form was found concealed in the base of middle compartment of 3 handbags kept inside his checked-in baggage in a black colour trolley suitcase and the same was recovered. On testing with drug detection kit, it was found to be heroine. Accordingly, it was seized under mahazar. Furthermore, as per his statement, he saw an advertisement of M/s.Kay Kay Consultancy in facebook and he applied for job and attended test and interview through video conferencing. The nature of his job was that he has to meet their clients abroad and bring the goods to India to hand over the same to the person concerned. While he was staying at abroad, a person used to approach him and give him a trolley, which he has to deliver a person in Delhi for monetary benefits. Accordingly, the trolley was handed over to him, however, previously when the checking was happened, according to the information furnished by him, one Nigerian national was arrested at Noida and as per the confession of the said Niegerian, the petitioner was arrested with a bag, in which samples are being carried by



CrI.O.P.No. 23878 of 2024

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them also contained drugs. He was given the job by conducting interview through video conferencing, but he was doing job in a fake U.S. company and it is a fake appointment order. After the couple of trips, the petitioner has got suspicious and he was informed that the bag in which samples are being carried by them also contains drugs, which are concealed pretty well in the bag. After a little bit of persuasion and rise in salary for doing so, the petitioner agreed to carry forward with the job and delivered the drugs. To that effect, the travel statements obtained from the concerned authority in respect of his earlier travel was produced. Submitting all the aforesaid submissions, the prosecution contended that he was aware of the consignment concealed in the suitcase in his checked-in baggage. Hence, he prayed to dismiss this petition.

5. By way of reply, the learned counsel for petitioner would submit that through online, the petitioner was selected and gave appointment order and the nature of work assigned is to attend board meetings as a representative of the said concern. Accordingly, he used to travel. At one occasion, official luggage was handed over to him, but he was not aware, what was carried in baggage and later, he came to know that it contains



CrI.O.P.No. 23878 of 2024

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narcotic drugs. Hence, he prayed to grant bail to the petitioner. In support of his contentions, he has produced the official communications issued by the company.

6. On considering the entire facts, it reveals that he was given appointment through online to attend board meetings at abroad in U.S. based construction company. According to the prosecution, U.S. company was also fake one and he used to carry official luggage, which contains poisonous substance. Contention of the petitioner is that he was not aware of the parcel and only the official luggage was handed over to him without any particulars and he is directed to take the luggage, accordingly, he carried the said luggage as per the communication given to him. The counter foil was also produced, which would reveals that Kay Kay consultancy gave a communication to him about his trip and also official luggage. At one communication, Kay Kay Consultancy mentioned that he has to keep all receipts of his upkeep spendings during his trip and in one of the information, it was informed that their representative will meet him and hand over the company's luggage. By carrying the said luggage, he went to Airport. By relying these communication statements, the learned counsel for



CrI.O.P.No. 23878 of 2024

WEB COPY

petitioner submitted that he was not aware of the drugs kept inside the official luggage. According to the prosecution, on three occasions, he was used to deliver the official luggage and he was also informed that narcotic drugs was kept in the said secret cabin of suitcase. So, the learned Special Public Prosecutor would submit that the petitioner was aware of the contraband kept in the official luggage. Furthermore, on three occasions, he delivered the narcotic drugs in the manner as per the confession given by accused, Mr. Anthony Chioke Nweke, Nigerian national, who was arrested and he is the mastermind to transport the ganja. The travel history was also submitted, it would show that the petitioner has travelled to abroad as per the direction of the company and carried the said official luggage. Therefore, on considering the submission of prosecution that he has knowledge about the contraband and he has carried the luggage and he used to deliver the luggage in three occasions, in which it contains narcotic substance. So, it requires detailed investigation and the seized contraband is a commercial quantity. Moreover, whether the petitioner was aware about the same or not, at this stage, it cannot be decided. So, it shows that the prosecution had sufficient materials to remand the petitioner to judicial



CrI.O.P.No. 23878 of 2024

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custody. Moreover, he was involved in such offence and the petitioner has to satisfy the twin condition of Sec.37 of NDPS Act, that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail, but the petitioner has failed to satisfy the conditions laid down under Sec.37 of the Act. Furthermore, on considering the fact that investigation is still pending and if he is released on bail, he may abscond and there is possibility of tampering the witnesses and hampering the investigation. Therefore, this Court is not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

14.11.2024

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Crl.O.P.No. 23878 of 2024

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rpp

Crl.O.P.No. 23878 of 2024

14.11.2024