



Crl.O.P.No.28273 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioner (A2) who was arrested and remanded to judicial custody on 02.04.2023 in C.C.No.361 of 2023 pending trial on the file of the learned II Additional Special Judge for exclusive trial of cases under NDPS Act Cases, Chennai, in connection with Crime No.95 of 2023 registered for the offences punishable under Sections 8(c) r/w 20(b) (ii) (C), 25 and 29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985, seeks bail.

2. The case of the prosecution is that on 02.04.2023, on receipt of the secret information about illegal sale of narcotic substances, respondent police went to the nearby Royapuram GM Pettai Road, near Rajagopal School, where they found four unknown persons/accused were standing near the Swift Car bearing registration No.TN-11-AW-1545 and on seeing the respondent, they attempted to escape and the respondent had caught hold of them. During search, the respondent found that the accused were in illegal possession of 36 kilograms of Ganja, which is a



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commercial quantity. The respondent has arrested the accused persons, seized the contraband under the cover of seizure mahazar and obtained confession statements from them and registered a case in Crime No.95 of 2023. After completion of investigation, final report has been filed and the case has also been taken up for trial in C.C.No.361 of 2023, on the file of the learned II Additional Special Judge for exclusive trial of cases under NDPS Act Cases, Chennai.

3. Learned counsel appearing for the petitioner submitted that the petitioner, who is arrayed as A2, is an innocent person and he has been falsely implicated in this case. He further submitted that this is the second application for bail filed by the petitioner. He also submitted that this Court had granted bail to the similarly placed co-accused (A3 & A4) in Crl.O.P.Nos.11508 & 13487 of 2023 vide orders dated 08.06.2023 & 21.07.2023 respectively. He further submitted that the petitioner is suffering incarceration from 02.04.2023 and thereby, he prayed for grant of bail.

4. Learned Government Advocate (Crl.Side) appearing for the



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respondent submitted that the petitioner and three others were standing near the Swift Car belonging to the petitioner and during search, they were found to be in possession 36 kilograms of Ganja. During the course of the investigation, A1 and A2 (petitioner herein) have confessed that they have gone to Andhra Pradesh and purchased the contraband for selling it in Chennai. Since there was no recovery from accused 3 and 4, this Court has granted bail to them.

5. He also submitted that this is the second application for bail filed by the petitioner and this Court, finding that the petitioner was found to be in conscious possession of the contraband, which is a commercial quantity and finding that the petitioner had not satisfied the twin conditions as required under Section 37 of NDPS Act, dismissed the earlier bail application filed by the petitioner in Crl.O.P.No.23793 of 2023 vide order dated 30.10.2023, stating that this is not the stage for granting bail and it can be decided after framing of charges. He also submitted that the accused are taking turns one after another and not even receiving the copies and thereby, the trial Court is unable to proceed



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further and frame charges. Therefore, there is no change of circumstances and thereby, he objects for grant of bail.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) for the respondent and perused the materials available on record.

7. It is the case, where the petitioner, who is arrayed as A2 in this case, along with other accused was found to be in conscious possession of 36 kilograms of Ganja in the Car belonging to his mother. It is the case of the prosecution that A1 and A2 had confessed that they have purchased the contraband from Andhra Pradesh for selling it in Chennai. Since, there is no recovery from A3 and A4, this Court had granted bail to them. Therefore, the petitioner herein did not stand on the same footing as that of A3 and A4. This Court, finding that the petitioner had not satisfied the twin conditions as required under Section 37 of NDPS Act, had dismissed the earlier bail application.



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8. Taking into consideration the above facts and the submissions made by the learned Government Advocate (Crl.Side) that there is no change of circumstances and also finding that the charges are not framed yet, this Court is of the opinion that the petition cannot be considered at this stage.

9. Accordingly, this Criminal Original Petition stands dismissed for the present.

26.02.2024

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