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Crl.O.P.No.267 of 2024

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A.D.JAGADISH CHANDIRA, J.

The petitioner (A1) 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 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



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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 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 A1, is an innocent person and he has been falsely implicated in this case. He further submitted that this is the fourth application for bail filed by the petitioner. He also submitted that on 02.04.2023, when the petitioner was standing near the Swift Car bearing registration No.TN-11-AW-1545, belonging to A2, the respondent Police had arrested A2 and others and during such time, the petitioner was also arrested along with them. He further submitted that



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the contraband was recovered only from the car. 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 and the petitioner, who is in judicial custody from 02.04.2023, is also similarly placed. Hence, he prayed for grant of bail on the grounds of parity.

4. Learned Government Advocate (Crl.Side) appearing for the respondent submitted that this is the fourth application for bail filed by the petitioner. He further submitted that the earlier bail applications filed by the petitioner in Crl.O.P.Nos.16231 & 19769 of 2023 was dismissed by his Lordship G.Chandrasekharan vide orders dated 31.07.2023 and 31.08.2023 respectively and the third bail application filed in Crl.O.P.No.24987 of 2023 was dismissed by his Lordship C.V.Karthikeyan on 01.11.2023. Based on the order passed by the Hon'ble Supreme Court in Special Leave Petition (Crl) No.15585 of 2023 dated 12.12.2023 that the bail applications arising out of the same FIR should be placed before the one and the same Court, the matter has been



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posted today before this Court, since A3 and A4 in this case have been granted bail by this Court.

5. He further submitted that the case of the petitioner stands on different footing and the petitioner cannot claim bail on the ground of parity. As far as the prosecution is concerned, the petitioner and three others were standing near the Swift Car belonging to A2 and the petitioner was found in possession of the bags containing 36 kilograms of Ganja and the contraband was recovered from him. During the course of the investigation, the petitioner and A2, who is the owner of the car 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. He also submitted that 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, had dismissed the earlier bail applications. He also submitted that there is no change of circumstances and the trial



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Court is ripe for trial and therefore, if the petitioner is granted bail at this stage, there is every possibility of him, to abscond again and may not be available for trial. Thereby, he object 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 A1 in this case, along with other accused was found to be in conscious possession of 36 kilograms of Ganja in the Car belonging to A2. 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 applications.



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8. Taking into consideration the above facts and circumstances of the case and the submissions made by the learned Government Advocate (Crl.Side) that there is no change of circumstances, this Court is not inclined to grant bail to the petitioner.

9. Accordingly, this Criminal Original Petition stands dismissed.

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