

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 38 of 2015

ORDER :

The petitioner, who is accused No.6 in Crime No.216 of 2014 of Wyra Police Station, Khammam District, filed the present application under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with the above crime registered for the offences punishable under Sections 20(b)(ii) (B) & 8(C) of the N.D.P.S. Act and Section 192(1) of the M.V. Act, 1988.

The case of the prosecution is that on 10.10.2014 at about 5.00 a.m., as per the instructions of the C.I. of Police, Wyra, the S.I. of Police along with his staff left the police station to conduct vehicular check in front of the police station on State Highway road. While conducting vehicular check, they found one Tata Indigo bearing registration No.AP 13C 0790 coming from Orissa and proceeding towards Hyderabad with four male persons. On suspicion, they stopped the vehicle and on search, they found a plastic bag containing 10 kgs of ganja. After complying with all the statutory requirements, the police apprehended the four persons, recorded their statements and seized the ganja under cover of seizure panchanama. Basing on these allegations, the above crime came to be registered.

The learned counsel for the petitioner submits that even accepting the allegations in the report to be true, no offence is made out against the petitioner and that the petitioner has nothing to do with the offences. According to him, the petitioner was neither present at the scene of offence nor is there any

incriminating material connecting him with the crime. The learned Additional Public Prosecutor opposed the application.

A perusal of the case diary, more particularly the confession of A.1, would show that the vehicle, in which the ganja was found, along with cash of Rs.25,000/- was given to A.1 to A.4 for transporting of ganja from Orissa to Hyderabad, as the cost of ganja in Orissa is quite low compared to its price in Hyderabad. The confession of A.1 further discloses that the ganja was to be handed over to A.5 and A.6 for sale in Hyderabad. The confession made to the police by the co-accused cannot be brushed aside at this stage. While dealing with the relevancy of the confession, a learned Single Judge of this Court in ***State of Andhra Pradesh V. Kollam Gangi Reddy***^[1] observed as under:

“The Apex Court in ***State through C.B.I. V. Amarmani Tripathy***^[2] categorically laid down that the confession of co-accused can also be a basis for holding *prima facie* accusation against the accused for negating bail in rejecting the contention contra.”

In view of the above and having regard to the facts and circumstances of the case, I am not inclined to grant anticipatory bail to the petitioner.

Accordingly, the Criminal Petition is dismissed. However, the petitioner, if so advised, is directed to surrender before the concerned Court and move an application for bail

before the appropriate Court after giving prior notice to the Public Prosecutor in which event the same shall be dealt with, in accordance with law, at the earliest.

JUSTICE C. PRAVEEN KUMAR

28th January, 2015
cbs

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[\[1\]](#) 2014 (2) ALD (Cri) 684

[\[2\]](#) AIR 2005 SC 3490