

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 28 of 2015

ORDER :

The petitioners, who are accused Nos. 4 and 5 in Crime No.90 of 2014 of G. Madugula Police Station, Visakhapatnam District, filed the present application under Section 438 Cr.P.C. seeking release in the event of their arrest in connection with the above crime registered for an offence punishable under Section 20(b)(i) of the N.D.P.S. Act.

The case of the prosecution is that on 15.11.2014 at about 7.00 hours, on receiving credible information about illegal transportation of ganja, the Sub-Inspector of Police, G.Madugula P.S. along with his staff reached Matyapuram junction, G.Madugula Mandal and while conducting vehicular check, found ten persons coming from Urlametta village who are in possession of gunny bags containing 400 kgs of ganja. The police apprehended eight of them and seized the ganja under cover of mediators' report. Basing on these allegations, the above crime came to be registered.

Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor.

A perusal of the material placed before the Court would disclose that pursuant to the confession made by the co-accused, the petitioners herein are shown as accused, and except that, there is no other material to connect the petitioners with the crime. But however, 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 though 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.”

Having regard to the said circumstances, I am not inclined to grant anticipatory bail to the petitioners.

Accordingly, the Criminal Petition is dismissed. However, the petitioners, if so advised, are 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, on the same day.

JUSTICE C. PRAVEEN KUMAR

21st January, 2015
cbs

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

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