

HONOURABLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.3553 of 2015

ORDER:

The petitioner, who is accused No.3 in Crime No.113 of 2014-15 of Prohibition & Excise Police Station, Rajahmundry (South), 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 against him and others for the offence punishable under Section 8 (c) r/w.20(b)(i) of Narcotic Drugs and Psychotropic Substances Act (for short 'NDPS Act').

The case of the prosecution is that on 27.04.2014 at about 4.00 p.m., on reliable information, the Assistant Prohibition & Excise Superintendent, ENFT, along with staff and mediators proceeded to Diwancheruvu Junction, NH-16, Rajangaram Mandal and seized 120 kgs., of dry ganja while it was being transported in a lorry bearing No.TN 23 U 2563 and arrested A1 and A2. Thereafter, a case in Crime No.113/2014-15 came to be registered on the basis of the mediators report.

Heard learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent – State.

A perusal of the averments in the report and the CD file would show that the petitioner is the owner of the lorry. It is contended that without his knowledge, A1 and A2, who are driver and cleaner of the lorry, loaded ganja on the way to their destination. Though the case is based on the confession of A1 and A2 but the relevancy of the confession of the co-accused is no more *res integra* in view of the judgment of the Apex Court in ***State through C.B.I. V. Amarmani Tripathy***, wherein it was held as under:

“The admissibility or otherwise of the confessional statement and the effect of the evidence already adduced by the prosecution and the merit of the evidence that may be adduced hereinafter including that of the witnesses sought to be recalled are all matters to be considered at the stage of the trial.”

Having regard to the said circumstances and taking into consideration the nature of offences, 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, on the same day or at the earliest.

C. PRAVEEN KUMAR, J

April 27, 2015.

KTL

