

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.3681 of 2016

ORDER:

-

The petitioners, who are A1 to A3, filed the present application under Sections 437 and 439 of the Code of the Criminal Procedure (Cr.P.C.), seeking enlargement on bail in Crime No.354 of 2015-16 of Paderu Excise Police Station, Visakhapatnam District, registered for an offence punishable under Section 20 (b)(ii) read with Section 8 (c) of NDPS Act.

The case of the prosecution is as under:

On 24.11.2015, while the informant along with his staff were conducting vehicle check at Mattam Junction, Hukkum Mandal, the accused were found in illegal possession and transportation of about 269Kgs. of dry ganja in one brown colour Swaraj Mazda Van bearing No.AP05 V 3960. The police arrested and seized the contraband. Basing on the arrest and seizure, the above case came to be registered.

Learned counsel for the petitioners submits that even accepting the allegations in the report to be true, no offence is made out against the petitioners. He submits that the petitioners were arrested on 24.11.2015 and since then they are in jail.

Learned public prosecutor opposed the application contending that investigation is still pending and in view of the fact that dry ganja weighing 269 Kgs. was seized from the petitioners, they are not entitled for any relief.

A perusal of the first information report would show that 269 Kgs. of dry ganja which was kept in 12 white polythene gunny bags was seized by the police. Apart from that, the material on record discloses that earlier the petitioners filed CrI.P.No.951 of 2016 before this Court seeking the same relief which was dismissed on 04.02.2016.

In view of the judgment of the Apex Court in ***Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu***^[1], wherein, it was categorically held that the

second application for bail can be considered only when there is change in the facts and law, considering the request of the petitioners in the absence of any change in facts or in law would not arise. Hence, the request of the petitioners is rejected.

Accordingly, the criminal petition is dismissed.

JUSTICE C. PRAVEEN KUMAR

28.03.2016
vnb

[\[1\]](#) AIR 2005 SC 921