

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.3192 of 2016

ORDER :

Heard the learned counsel for the petitioner and the learned Public Prosecutor for the respondent.

2. The petitioner, who is an accused in Crime No.249 of 2015 of S. Kota Police Station, Vizianagaram District, filed the present petition under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with the above crime registered for the offence punishable under Section 8(c) read with 20 (b) (ii) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. The case of the prosecution is as under:

On 02.12.2015 at 6.00 p.m. while the informant was conducting vehicle check in front of Boddavara Village, S. Kota, received credible information about illegal transportation of Ganja. It is alleged that about 200 kgs of Ganja packed in 108 packets was being transported in Bolero Max pickup vehicle bearing No.AP 31 TC 7028. On interception, the accused is alleged to have ran away from the place leaving the vehicle. Basing on these allegations, the above crime came to be registered.

4. During the course of investigation, A-1 and A-2 were arrested.

5. A perusal of the confessional statement of A-1 and A-2 show that the petitioner and another were maintaining 4 or 5 Bolero vehicles for the purpose of transporting Ganja from Arak and Paderu side to Anakapalli and sell the same to one Bikshapathi and his followers. On 01.12.2015, when A-1 went to the house of Barla Simhachalam and asked Rs.2,000/- as hand loan for the treatment of his sickly daughter, the said Simhachalam told him to bring the Bolero Max Pickup, which is at Araku Valley area to Anakapalli and hand over to followers of Bikshapathi and that he would give money. The confessional statement made by A-2 indicates that the petitioner and another person provide vehicles for transportation of Ganja for selling the same at higher prices.

6. Learned counsel for the petitioner mainly submits that even accepting the allegations in the report to be true, neither any contraband was seized from the petitioner nor is there any proof to show that he is the owner of the vehicle.

7. Learned Public Prosecutor opposed the application.

8. Before advertng to the contentions, it is to be noticed that earlier the petitioner herein filed CrI.P.No.1745 of 2016 seeking anticipatory bail, but the same was dismissed as withdrawn on 18.02.2016. When the Court

asked the learned counsel for the petitioner the reason for filing again within such a short time, it is stated that remand report was not filed on earlier occasion. But the learned Public Prosecutor placed on record the entire material papers filed along with CrI.P.No.1725 of 2016. A perusal of the documents filed would show that all the documents filed now were also filed on the earlier occasion. He further submits that when the Court expressed its opinion about the matter, learned counsel for the petitioner withdrew the application. Even on merits, it is to be noted that though no contraband could be recovered from the petitioner since he is absconding till date. It is nobody's case that Ganja was stored in the house of the petitioner. On the other hand, it is the case of the prosecution that the petitioner along with others, who are owners of 4 to 5 vehicles are using the same for transporting the contraband to A-1 and others knowing fully well that transporting of such material is illegal. Since *prima facie* a case is made out against the petitioner, I am not inclined to grant anticipatory bail to the petitioner.

9. Accordingly, the Criminal Petition is dismissed.

JUSTICE C. PRAVEEN KUMAR

Date: 16th March, 2016

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