

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 2479 of 2016

ORDER :

The petitioner, who is accused No.1 in Crime No.4 of 2016 of Y.Ramavaram Police Station, filed the present Criminal Petition under Sections 437 and 439 Cr.P.C. seeking enlargement on bail in the above crime, registered against him and others for the offences punishable under Sections 8 (c) read with 20 (b) (ii) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

The case of the prosecution is that on 31.01.2016 at about 3.00 p.m. on receipt of credible information about the transportation of ganja the Inspector of Police along with mediators went to Sivalayam of Puthigunta village, Y.Ramavaram Mandal and found accused Nos.1 to 14 and another loading bags in Bolero Vehicle bearing No.AP 37 TC 5593 by unloading the same from Maxi Truck. On seeing the police, the accused tried to ran away, but with great difficulty the police apprehended 14 persons. The averments in the case diary further disclose that the police have found about 10 bags and each bag containing 10 pockets. In all about 200 kgs. of ganja worth about Rs.8.00 lakhs was seized by the police. Pursuant to the search and seizure, the petitioner herein and other accused were arrested. The vehicles which were said to have been used for purchasing and transportation of ganja were also seized under a cover of panchanama. Basing on these allegations the above case came to be registered.

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

Learned counsel for the petitioner mainly submits that even

accepting the allegations in the report to be true no offence is made out against the petitioner. According to him, they were found to be loading and un-loading the gunny bags as such it cannot be said that all the fourteen persons are responsible for commission of offence.

Learned Additional Public Prosecutor opposed the application contending that the petitioner is the kingpin of the entire operation and it was he, who purchased the ganja for the purpose of sending it to other States to be sold at a higher price.

A perusal of the remand report would show that on the date of incident fourteen persons were apprehended while loading 10 bags of ganja in a Bolero Vehicle camouflaging ganja bags with paddy bags. On seeing the police, the accused tried to skulk away but fourteen of them were apprehended. The confession of all the accused, who were arrested would show that while the first accused was doing seasonal business, developed acquaintance with Kadabala Sivakumar Reddy (accused No.2) of Gangavaram Mandal and his friends namely Boggula Erika Reddy (accused No.6), Boggula Balureddy (accused No.7), one Ramulukonda Narasimhamurthi and Yatla Aravind Reddy (accused No.8). With a view to earn more money he contacted accused No.2 about the accessibility of ganja, who informed him that it is not available in Addateegala and Y.Ramavaram and that it is available in Nalajarthi or Neelavaram villages of Visakhapatnam District. On that accused No.2 purchased 14 kgs. of ganja from Neeravaram village and kept the same in a bag and handed it over to accused No.1 with a commission of Rs.5,000/-. He is alleged to have taken the said ganja and sold the same to unknown persons at Rs.3,000/- per kg. Like wise, he got habituated to do this type of business. On 27.01.2015 accused No.2 took accused No.1 to Neelavaram Teegalametta Village of Visakhapatnam District and developed acquaintance with accused Nos.9 to 13 and

asked them for about 200 kgs. of ganja. They informed him that they have only 80 kgs. of ganja and that remaining quantity will be supplied later. He gave Rs.31,000/- and requested them to hand over the ganja at the outskirts of the village. On 30.01.2016 accused No.1 instructed accused No.2 and others about the same, went to Neelavaram, packed the ganja and returned along with ganja on 31.01.2016. On that day he requested the driver of Bolero vehicle, who used to transport paddy, for transporting ganja and also promised him that there is no risk in it. The said driver demanded Rs.10,000/- for which the petitioner agreed to pay Rs.5,000/-. The said vehicle was used for transportation of ganja and paddy together. While they were un-loading the ganja bags from Maxi Truck and loading the same in Bolero vehicle, the accused were apprehended leading to registration of present case.

It is true that the case is based on the confession of co-accused but at the same time it is to be noted that on the date of incident about 200 kgs. of ganja (commercial quantity) was recovered from the accused. The said recovery corroborates the contents of the confession which was recorded on the date of arrest itself. Having regard to the fact that the quantity of ganja seized is a commercial quantity; since a *prima facie* case is made out against the accused and in view of the bar under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, I am not inclined to grant bail to the petitioner.

Accordingly, the Criminal Petition is dismissed.

JUSTICE C. PRAVEEN KUMAR

14.03.2016
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