

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.3203 OF 2016

ORDER:

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

2. The petitioners, who are accused Nos.1 & 3 in Crime No.8 of 2016 of Maredumilli Police Station filed this criminal petition under Sections 437 and 439 of Cr.P.C., seeking enlargement on bail in the said crime registered for the offence punishable under Section 8 (c) read with Section 20 (b) (ii) (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. The case of the prosecution is as under:

On 25.01.2016 at about 7.00 A.M., the Circle Inspector of Police, Rampachodavaram, on receipt of credible information, went to the outskirts of Maredumilli Village and noticed a TATA XENON RX PICKUP vehicle bearing No.AP 36 TB 0959 coming towards them. On seeing the police, the accused stopped their vehicle and tried to flee away. With great difficulty, the police apprehended all the three accused, who were running away leaving the vehicle. After complying with the mandatory provisions, the police searched the vehicle and found 80 Kgs of Ganja. All the three accused were arrested on the same day.

4. Learned counsel for the petitioners mainly submits that even accepting the allegations in the report to be true, no offence is made out against them as no Ganja was recovered from their possession.

5. On the other hand, learned Public Prosecutor opposed the bail application contending that not only these petitioners but a big racket is under operation in this region, which the police are trying to

unearth. He submits that if the petitioners are released on bail, further investigation in the crime shall be hampered.

6. A perusal of the Mediator's report show the alleged recovery of 80 Kgs of Ganja from their vehicle. The petitioners were apprehended at the stop and about 80 Kgs of Ganja was recovered from vehicle in which the accused were travelling.

7. A perusal of the confessional statement of A-1 would show that A-1 has made special arrangements to the vehicle, which is used for carrying Ganja. As per the confession, he created a chamber in the vehicle whereby the Ganja can be concealed with a metal sheet at the top. He also refers to transportation of Ganja on earlier occasions as well. The confession of A-1 further discloses about his involvement in transportation of Ganja and selling the same to one Gaffar, who is the resident of Maharashtra. The averments in the statement also show that prior to Sankranti festival, he asked the other accused for 80 kgs of Ganja for which they agreed to provide. The first petitioner is alleged to have given a sum of Rs.50,000/- as advance for supply of Ganja.

8. Similarly, the confessional statement of the second petitioner show that he was engaged by the first accused for a period of three days as a driver to his vehicle to transport Ganja. Pursuant to the same, he is alleged to have taken the vehicle to Maredumilli Village where the Ganja was loaded and he was transporting the same along with A-1, when the vehicle was intercepted. In **Mohanlal Vs. State of Rajasthan**^[1], the Apex Court held that a confession leading to discovery of prohibited substance, which was within the knowledge of the accused can be said to be in his possession.

9. In the instant case the contraband weighing about 80 Kgs., was said to have been in the vehicle which was to the knowledge of both the accused. Hence, it cannot be said that they are

not aware about the contraband in the vehicle. Since the investigation is still pending, I am not inclined to consider the request of the petitioner.

10. Accordingly, the Criminal Petition is dismissed.

JUSTICE C. PRAVEEN KUMAR

Date: 23rd March, 2016

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[\[1\]](#) SCC 2015 (6) 222