

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

CRIMINAL PETITION No. 14989 of 2016

ORDER:

Vide present criminal petition, the petitioner/Accused No.3 seeks a direction thereby to enlarge him on bail in Crime No. 30 of 2015 on the file of Station House Officer, Kothakota Police Station, Visakhapatnam District registered for the offences punishable under Sections 25 and 20(b) of NDPS Act.

The case of prosecution is that on 30.05.2016 at about 8.00 AM, on reliable information about the transportation of Ganja, the police along with mediators reached near Cheemalapadu canal bund, at that time, four persons were found coming from Kalyanapulova side on two motor cycles by carrying polythene gunny bags and on seeing the police, they tried to escape from the place by leaving the bags and motor cycles. Thereafter, the petitioner and two others were arrested and they confessed before the police that they are guilty of the offence.

Learned Counsel for the petitioner submits that as per the prosecution story, four persons were found carrying five bags on two motor cycles and that it is very difficult to carry five bags while sitting on the motor cycles as pillion riders. The prosecution has booked the petitioner along with three other accused only for the sake of registering number of cases.

On a perusal of the remand report, total Ganja seized is 100 Kgs which is packed in five bags. The said quantity comes under commercial quantity and Section 37 of the NDPS Act play a role in the present case.

Even if this Court goes by the contents of Section 37 of NDPS Act, this Court has to record its opinion that the petitioner would likely be acquitted and he will not indulge in similar offences in the future.

Having come across the number of cases, every third case is registered under NDPS Act and the persons are booked on the allegation of transportation of contraband. As stated by the petitioner, which is not disputed by the learned Additional Public Prosecutor that Ganja crop is being raised only in two districts, i.e. Visakhapatnam and East Godavari and that the whole Ganja is coming from those two Districts. I find in every case that there are 2 to 10 accused persons are involving. Those who are trading Ganja, they are earning good amount of money; whereas those who are bringing the said contraband from the tribal areas or helping for transportation, they are being paid little above the daily wages. In this process, the youth, middle aged persons of lower strata of society are involved. Those who are actually trading ganja are not caught by the police, but supporting youth are spoiling their life and carrier. If the State Government intends to stop the transportation of Ganja, it is not a difficult task. But in the act of consuming Ganja, majority of people involved are poor, and therefore there is no hue and cry from the State Government. In

some other States, in transportation of charas, heroine etc. a good number of youth of families are involved. Media and NGOs are playing good role by taking of all efforts to save the welfare of those families. In transportation of Ganja and other contrabands, as I feel, very few are involved from rich families. When this Court put a query as to why the police and State administration have failed to stop the transportation of ganja from Visakhapatnam and East Godavari Districts to other parts of Andhra Pradesh and Telangana States, the learned Additional Public Prosecutor has no answer.

In view of the facts recorded above, I hereby direct Superintendents of Police of Visakhapatnam and East Godavari Districts to present in person before this Court on 10.11.2016 and explain by way of filing respective affidavits regarding the steps taken to stop transportation of ganja from Visakhapatnam and East Godavari Districts to other parts of Andhra Pradesh and Telangana states and neighbouring states.

Coming to the case on hand, the earlier bail petition of the petitioner vide Criminal Petition No. 1701 of 2016 was dismissed by this Court on 08.07.2016, and there are no change of circumstances thereafter in the present case. In view thereof, the Criminal Petition is liable to be dismissed. However, the learned Counsel for the petitioner seeks permission to withdraw the instant Petition with liberty to file a Petition afresh at the appropriate Stage.

Permission is accorded and the Criminal Petition is dismissed as withdrawn with liberty as sought for.

Miscellaneous petitions pending consideration if any in the Criminal Petition shall stand closed in consequence. No order as to costs.

JUSTICE SURESH KUMAR KAIT

DATED 25TH October, 2016.
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