

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.2043 of 2016

ORDER:

-

The petitioners, who are A1 and A2, 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.84 of 2015 of Butchiyyapeta Police Station, Visakhapatnam District, registered for an offence punishable under Section 20(b)(1) read with Section 8(c) of NDPS Act (for short, 'the Act').

The case of the prosecution is that on 11.12.2015 at about 04.00 p.m., on receipt of credible information, the inspector of police along with his staff, while conducting vehicle search, noticed an auto bearing No.AP31 TT 1480 coming from V.Madugula to Vaddadi with two persons sitting in front side of the auto including driver. On seeing the police personnel, the driver of the auto tried to escape from the place. Then the police party apprehended the accused and when questioned, both the accused confessed about commission of the offence and on search about 46 Kgs. of ganja was recovered from the possession of the petitioners. Basing on the said arrest and seizure, the above case came to be registered.

Heard learned counsel for the petitioners and the learned public prosecutor appearing for the respondent-State.

Learned counsel for the petitioners submits that the petitioners were arrested on 11.12.2015 and in view of the fact that all the material witnesses are examined, seeks bail.

Learned Public Prosecutor opposed the application.

A perusal of the material on record would show that the contraband which is seized from the petitioners is commercial

quantity. Section 37 (1)(a) of the NDPS Act states as under:

“(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)—

(b) no person accused of an offence punishable for 2[offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose

the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court

is satisfied that there are reasonable grounds for believing that

he is not guilty of such offence and that he is not likely to commit any offence while on bail.”

Having regard to the fact that the petitioners were caught red handed with 46 Kgs. of ganja which was seized in the presence of mediators and as there are reasonable grounds to believe that the petitioners are guilty of the offences, I am not inclined to grant bail to the petitioners.

Accordingly, the criminal petition is dismissed.

JUSTICE C. PRAVEEN KUMAR

25.02.2016
vhb