

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.11697 of 2016

ORDER:

The petitioner, who is an accused, in S.C.No.39 of 2016 on the file of the I Additional District Judge, Rajamahendravaram, which arose out of Crime No.4 of 2016 of Yetapaka Police Station, East Godavari District filed the present application under Sections 437 and 439 Cr.P.C., seeking enlargement on bail in the above case registered for the offence punishable under Sections 8(c) read with 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act 1985 (for short "the Act"). The petitioner was arrested on 20.01.2016 and since then he is in Jail.

2. The allegations in the charge-sheet filed against the accused are as under :-

On receipt of credible information, the Inspector of Police along with his staff rushed to outskirts of Ramgopalapuram village, Yetapaka Mandal and found one person standing beside a brown colour Car. On seeing the police party, he tried to escape from the place. He was apprehended and questioned about his identity and his presence there, for which he replied

that he took the Car from his elder brother, went to Seeleru village in the said Car, purchased 90 Kgs of Ganja for Rs.1,000/- per Kg from an unknown person, packed it in 6 plastic gunny bags and loaded in the car with a view to sell at Hyderabad for higher price. While he was proceeding, the said car dashed to a stone and turned turtle. Then he decided to shift the Ganja from that Car to another vehicle and was waiting for another vehicle, meanwhile the police apprehended him. On the directions of the Inspector of Police, the petitioner is alleged to have removed six Ganja gunny bags from the Car and placed before the mediators. Thereafter, he was alleged to have been asked by the Inspector of Police as to whether he wants to be searched by him as he is a Gazetted Officer or by any other Gazetted Officer. On that the petitioner stated that he wants to be searched by another Gazetted Officer and not by the Inspector of Police. Then in the presence of one G.Sai Krishna, who is a Veterinary Assistant Surgeon, seized the Ganja. After weighing the Ganja, prepared sample packets as required under Law and seized the same by arresting the accused. Basing on the above allegations the present crime came to be registered.

3. Learned counsel for the petitioner mainly submits that the material placed before the Court does not anywhere indicate compliance of Section

50 of the Act. He relied upon the judgment of the Apex court in **State of Rajasthan v. Parmanand and another** in support of the same. He further submits that giving an option to the accused of being searched by the Investigating Officer itself is an violative of Section 50 of the Act. The same is opposed by learned Additional Public Prosecutor contending that there is no violation of any of the provision of the NDPS Act and in view of the earlier order passed by this Court, the petitioner is not entitled for any relief.

4. As seen from the record, the petitioner herein earlier filed Crl.P.No.9388 of 2016 seeking bail in the S.C.No.39 of 2016 (present case) which was dismissed by this Court on 11.07.2016. The said order was passed on merits of the case. Subsequently, the present application came to be filed seeking release on the ground that the mandatory provision under Section 50 of the Act was not followed. Insofar as Section 50 of the Act is concerned the material placed before this Court more particularly the averments in the charge-sheet do not anywhere indicate personal search being conducted on the accused. Since the material placed before this Court does not anywhere reveal personal search of the accused the question

of complying with Section 50 of the Act would not arise. In view of the above, I am not inclined to consider the request of the petitioner.

5. Accordingly, the Criminal Petition is dismissed.

JUSTICE C. PRAVEEN KUMAR

Dt:26.08.2016

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