

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

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CRL.P.NO.10350 OF 2016

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ORDER

The petitioner, who is an accused in Crime No.71 of 2016 on Prohibition and Excise Police Station, Tandur, Rangareddy District, filed the present application under Sections 437 and 439 Cr.P.C., seeking enlargement on bail in the above crime registered for the offences punishable under Sections 8(c) read with 22 (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ' the Act')

The case of the prosecution is as under:

On 20.02.2016 at about 11.30 a.m., the Prohibition and Excise Inspector along with his staff while conducting route watch near Laxminarayanapur "X" roads of Yalal Mandal detected a case of illegal possession and transportation of Alprazolam weighing about 2 kgs in two plastic covers each containing 1 kg. Then the inspector seized the said stock and vehicle i.e., Maruti Suzuki Swift Car by preparing panchanama and arrested A-1.

Learned counsel for the petitioner mainly submits that the prosecution failed to comply with Sections 42 and 50 of the Act. Relying on the judgments of the Apex Court in DILIP v. STATE OF MP.^[1] and UNION OF INDIA v. SHAH ALAM^[2], the learned counsel for the petitioner would submit that in the present case, the authorities made personal search and hence compliance with the procedure contemplated under Section 50 of the Act, is required to be followed. As the procedure with regard to search and seizure has not been followed, thereby violating the statutory provisions, the counsel seeks bail.

The same is opposed by the learned Additional Public Prosecutor contending that as the allegations made in the report do make out a case and since Alprozolam seized is commercial quantity the petitioner is not entitled for bail.

The argument of the learned counsel for the petitioner that Alprazolam was seized from the person of the petitioner appears to be incorrect. The material on record establishes that the said contraband was seized from the vehicle. In the judgments relied on by the learned counsel for the petitioner, there was personal search and seizure and as the procedure under Section 50 of the Act was not followed, the court found fault with the same. In the present case, as noted above, there was no personal search at all. Seizure of commercial quantity of psychotropic substance was from a vehicle. Therefore, the law laid down in the said judgments referred to above may not be applicable to the case on hand. Hence the argument of the counsel that Section 50 was not followed, cannot be accepted. The material placed before this court would show that vide Cr.P.No.7351 of 2016 and CrI.P.No.8984 of 2016 the petitioners moved for bail before this court, which were dismissed on merits by this court on 7.6.2016 and 29.6.2016 respectively. In fact one of the applications was dismissed even after filing of the charge sheet. Under these circumstances, I am not inclined to grant bail to the petitioner.

Accordingly, the criminal petition is dismissed.

02—08—2016

GM/AVS

[\[1\]](#) (2007)1 SCC (Cri) 377

[\[2\]](#) (2010)3 SCC (Cri) 377