

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.13829 of 2016

ORDER:

The petitioner, who is A2 in Crime No.30 of 2016 of Kothakota Police Station, Visakhapatnam District, filed the present application under Section 438 Cr.P.C. seeking release in the event of his arrest in connection with the above crime, registered for the offences punishable under Sections 25 and 20 (B) of NDPS Act.

The case of the prosecution is that on receipt of credible information about illegal transportation of ganja, on 30.05.2016 the police conducted a raid at Cheemalapadu Canal Bridge of Ravikamatham and found two motorcycles coming from opposite side along with four persons and bags. When the police stopped the vehicles, they tried to escape from the place, however, the police apprehended three out of four persons. On search, 100 Kgs. of ganja was seized from five gunny bags. Basing on the said search and seizure, the present crime came to be registered.

Learned counsel for the petitioners submits that the petitioner is implicated in the present crime only on the basis of confession of A1, which is inadmissible in evidence and as no quantity of ganja was seized from the possession of the petitioner seeks bail.

Learned additional public prosecutor opposed the application contending that even the mediators report discloses involvement of the petitioner in the crime.

A perusal of the mediators report and also the confession statements of the accused would show that at the instance of A1, ganja was being illegally transported. Record shows that A1 and A3 were proceeding on one motor cycle with ganja, whereas the petitioner and A4 were proceeding in another

motor cycle carrying the contraband. The total quantity of ganja seized after conducting search is commercial quantity. Apart from that, the material on record also discloses that earlier the petitioner and others filed CrI.P.Nos.12546 and 12565 of 2016 before this Court seeking the same relief which was dismissed by a common order on 30.08.2016.

In view of the judgment of the Apex Court in *Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu*¹, wherein, it was categorically held that the second application for bail can be considered only when there is change in the facts and law, considering the request of the petitioner in the absence of any change in facts or in law would not arise. Hence, the request of the petitioner is rejected.

Accordingly, the criminal petition is dismissed.



JUSTICE C. PRAVEEN KUMAR

27.09.2016
vnb

¹ AIR 2005 SC 921