

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.13449 OF 2016

ORDER:

Heard the learned counsel for the petitioner and the learned Public Prosecutor.

2. The petitioner who is A3 in NDPS SC No.132 of 2016, which arose out of F.I.R.No.4 of 2016 of Mothugudem Police Station, East Godavari District, filed the present Criminal Petition under Sections 437 and 439 of the Code of Criminal Procedure, 1973, seeking enlargement on bail in the above crime. A charge sheet came to be filed against the petitioner and others for an offence punishable under Section 8(c) read with Section 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

3. The case of the prosecution is that on 24.01.2016, on receipt of credible information about illegal transportation of ganja in a lorry proceeding towards Seeleru to Bhadrachalam, LW12 along with his staff, mediators and electronic weighing machine, proceeded towards Y.Junction, Polluru village and conducted vehicle check. Accordingly, the said police personnel stopped one DCM Van and asked the driver to get down from the van, who tried to escape. Under the suspicious circumstances, the police surrounded and apprehended him and recorded his confessional statement. After complying with the mandatory requirements, search was conducted and about 927 Kgs. of ganja was found in 24 gunny bags concealed in the vehicle. Immediately, the said ganja along with driving license and the

vehicle were seized. Basing on these allegations, the present case came to be registered.

4. Learned counsel for the petitioner submits that the prosecution failed to comply with Section 50 of the NDPS Act and as the entire search and seizure gets vitiated seeks for bail. The same is opposed by the learned public prosecutor.

5. The averments in the charge sheet do not anywhere indicate conducting personal search of the accused. Infact, huge quantity of ganja was alleged to have been recovered from the lorry, which was driven by the petitioner/A3. In the absence of any personal search, the question of complying with Section 50 of NDPS Act would not arise. Apart from that the petitioner is said to have moved CrI.P.No.4376 of 2016 seeking bail before this Hon'ble Court which was dismissed as withdrawn on 06.04.2016 and CrI.P.No. 7062 of 2016, which was also dismissed on 19.05.2016.

6. Having regard to the facts and circumstances of the case; in view of the earlier orders passed by this Court and since the petitioner failed to satisfy the rigour of Section 37 of NDPS Act, his request cannot be considered.

7. Accordingly, the Criminal Petition is dismissed. It is needless to mention that the trial Court shall dispose of the Sessions Case as early as possible, preferably within a period of three months.

---

JUSTICE C. PRAVEEN KUMAR

Date:22.09.2016  
vnb