

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CRIMINAL PETITION No. 1152 of 2016

ORDER:

The petitioner, who is A-6, filed the present application under Section 438 Cr.P.C., seeking release in the event of his arrest in Crime No.157 of 2015 of Thorrur Police Station, Warangal District, registered against the petitioner and others for the offences punishable under Sections 8(c) read with 20(a)(1) of NDPS Act.

The case of prosecution as stated in the First Information Report is as under :

On 04.07.2015 at about 7.00 p.m., the S.I. of Police, Thorrur P.S., lodged a report stating that on that day at about 12.00 noon he along with his Officer while conducting vehicle check near Viceroy Dhaba stopped a lorry bearing No.A.P.16-TA-0678 proceeding from Khammam to Thorrur side. Three persons got down from the lorry and tried to escape. On questioning there was no satisfactory statement given by them. On interrogation they confessed that the lorry was loaded along with some Ganja bags along with some banana branches. Immediately, the S.I. of Police sent intimation to Superior Officers and sent a requisition to Tahasildar, Thorrur Mandal with a request to bring mediators. The Tahasildar along with two mediators came near the Viceroy Dhaba and on interrogation by the Tahasildar the above four persons confessed about purchase of Ganja from unknown persons and also revealed that their lorry owner was doing business of transporting Ganja and previously also he transported Ganja to Delhi through Eluru. About 165 bags of Ganja weighing 3952 Kgs. was recovered from the lorry. Basing upon the search and seizure the contraband and the vehicle was seized.

The learned counsel for the petitioner mainly submits that the petitioner is innocent of the offence alleged against him and a false case has been foisted against him. According to him, the petitioner was not present at the time of commission of the offence and he is not even the owner of the vehicle so as to fix him with the culpability of the offence. He submits that except the confession of A-1, to the effect that the petitioner is owner of the lorry, there is no material to connect him with the crime. He submits that the petitioner was acting as a broker and except taking the signatures of the seller he did not get the vehicle transferred so as to claim ownership of the vehicle.

The learned Additional Public Prosecutor opposed the application contending that the petitioner is involved in six different crimes of different offences and as such he is not entitled for the relief. He submits that there is enough material to show that he is involved in transport of Ganja and as such no relief can be extended to him.

A perusal of the Case Diary which has been placed on record by the Public Prosecutor would show that one Sanamandra Jalibaba who was examined as L.W.14 states that he is a registered owner of the vehicle and that he has sold his vehicle to A-6 and also executed an agreement to that effect. In the said agreement dated 12.05.2015 there is a reference of forfeiting his obligation from that date. The office of the R.T.O., Bhimavaram, gave a letter stating that the said vehicle stands registered in the name of one Jali Babu with effect from 14.11.2014. There is a document dated 12.05.2015 executed in the presence of two witnesses wherein it has been mentioned that the said lorry containing National Permit sold to the petitioner for a consideration of Rs.2,90,000/- and that a sum of Rs.2,00,000/- was paid on that day. It has been specifically stated that the vehicle was handed over to the petitioner on that day and that the owner has nothing to do with the vehicle from that day. The balance amount of Rs.90,000/- was to be paid on or before 28.05.2015. It is further stated in the said agreement that after payment of money the vehicle will be transferred as per their convenience and that they have no objection for the same. The said letter was given to the police by L.W.14 during the course of investigation.

The learned counsel for the petitioner tried to contend that the allegations are all false and that the petitioner is not the owner of the vehicle in spite of document dated 12.05.2015 wherein L.W.14 states that he sold the

vehicle to the petitioner. The learned counsel for the petitioner submits that he is not the owner of the vehicle since he has sold the same to A-1. He draws support to his statement from the confession of A-2, which was recorded immediately after arrest, wherein he stated that one Satyanarayana Murthy (A-1) is the owner of the vehicle and at his instance the material was loaded. The record further discloses that A-1 to A-5 were arrested and released on bail. Having regard to the fact that there is no recovery from the petitioner and there being two versions with regard to the ownership of the vehicle, the request of the petitioner can be considered with the following direction :

The petitioner is directed to surrender before the concerned court and move an application for regular bail by giving prior notice to the learned Public Prosecutor concerned, in which event, the same shall be considered in accordance with law on the same day on such terms and conditions as the concerned court deems fit and proper.

With the above direction, the Criminal Petition is disposed of.

JUSTICE C.PRAVEEN KUMAR

Dt: 09.03.2016
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