

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.7647 of 2017

ORDER:

This petition is filed under Sections 437 and 439 Cr.P.C. by the petitioners/accused Nos.1 to 3 seeking regular bail in Crime No.23 of 2017 on the file of the Station House Officer, Tuni Police Station, East Godavari District, registered for the offence punishable under Section 8(c) read with 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act.

2. Learned counsel for the petitioners submitted that the police investigated into the matter and filed charge sheet, therefore, it is a fit case to grant bail to the petitioners. *Per contra*, learned Additional Public Prosecutor submitted that in view of Section 37 of NDPS Act, the petitioners are not entitled to bail. He further submitted that the petitioners belong to State of Tamilnadu and if they are released on bail, it is very difficult to secure their presence at the time of trial.

3. The case of the prosecution is that on 28.02.2017 the investigating agency seized 50 kgs., of ganja collectively from the possession of the petitioners on National High Way No.16 while checking the vehicles. After following due procedure, the above case was registered against the petitioners.

4. The petitioners filed CrI.M.P.No.412 of 2017 on the file of the I Additional District and Sessions Judge, East Godavari, at Rajamahendravaram under Section 439 Cr.P.C., and the same was dismissed on 24.03.2017. Thereafter, the petitioners approached this Court by filing CrI.P.No.3744 of 2017 and the same was dismissed by this Court on 12.06.2017.

5. As rightly pointed out by the learned counsel for the petitioners, simply because the petitioners belong to some other State that itself is not a ground to reject the bail. It is not in dispute that the quantity of ganja seized from the possession of the petitioners is 50 kgs., which is a commercial quantity.

6. As per the principle enunciated by the Hon'ble apex Court in **State of M.P. v. Kajad**¹, **Collector of Customs v. Ahmadaliev Nodira**² and **Union of India v Sanjeev v. Deshpande**³, the court can grant bail to the persons involved in the cases under the NDPS Act, even though the contraband seized is a commercial quantity, if the court satisfies that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and even if he is released on bail, he will not involve in similar type of offences.

¹ (2001) 7 SCC 673

² (2004) 3 SCC 549

³ (2014) 13 SCC 1

7. A perusal of the record *prima facie* reveals that the petitioners committed the alleged offence. If the petitioners are released on bail, the possibility of involving in similar type of cases cannot be ruled out completely.

8. Having regard to the facts and circumstances of the case and also the principle enunciated in the cases cited supra, this Court is of the considered view that it is not a fit case to grant bail to the petitioners.

9. In the result, the Criminal Petition is dismissed.

Date:30.08.2017

Rns

T.SUNIL CHOWDARY, J



