

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.4225 OF 2017

ORDER:

A request is made, under Sections 437 and 439 of the Code of Criminal Procedure, 1973 (for short, 'the Code'), for grant of regular bail in F.No.DRI/HZU/VJRU/48/ENQ-1 (INT-1) of 2017, P.S. Directorate of Revenue Intelligence (for short, 'D.R.I.'). Regional Unit, Vijayawada, registered for the offence punishable under Section 8 (c) read with 20, 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act (for short, 'the Act').

2. Heard Sri Md. Muzafferullah Khan, learned counsel for the petitioner, who is arraigned as accused No.1 in the aforesaid crime, and the learned Special Public Prosecutor appearing for the D.R.I.

3. The main submissions have been that the petitioner herein was driving a cargo vehicle to come to Hyderabad from Eluru. The officers of D.R.I., on credible information that cannabis, also called as ganja, was being illicitly transported in the said vehicle by secreting and concealing the same, intercepted the vehicle at Benz circle, Vijayawada, and found the petitioner driving the cargo vehicle carrying a consignment of cannabis covered with cabbage vegetable. Since, it was felt by the officers of D.R.I. that it was not conducive to conduct examination of the vehicle thereat, they shifted the vehicle to the office of D.R.I. and conducted proceedings and having unloaded the cabbage packed in plastic netted sacks, beneath the sacks of

cabbage, they found 44 gunny bags containing a total of 440 brown paper wrapped packets emanating strong odour and seized them.

4. Learned counsel for the petitioner mainly agitates that the petitioner was remanded to judicial custody on 08.01.2017, but the Investigating Agency failed to file charge sheet within the time provided, but filed the same only on 29.06.2017 and, therefore, a right accrues to the petitioner to seek bail. The said ground is raised as one of the main grounds for granting bail.

5. The second ground is that the petitioner is only a driver and he is absolutely innocent and he has no knowledge of cannabis being concealed underneath the cabbage vegetable and he is not involved in the crime. Third ground is that the petitioner has no criminal background and satisfies one of the conditions contemplated by the provisions of Section 37 of the Act and the present facts satisfy even the other condition also. The next ground is that on humanitarian ground, that the father of petitioner met with an accident on 07.06.2017 and died, bail be granted. These have been the main grounds agitated by the learned counsel for petitioner for grant of bail. He, however, would fairly submit that the bail petition earlier filed in Crl.P.No.3461 of 2017 was withdrawn on 28.04.2017.

6. The learned Special Public Prosecutor would resist the request contending that as many as 1334.83 Kgs. of ganja was being transported and a perusal of the application filed by the D.R.I. staff

under Section 167 of the Code for remand of the accused would clearly show that the petitioner made a confessional statement to the effect that he was transporting ganja on the advice of his friend and he was apprehended by the D.R.I. staff at the place of occurrence. He also admitted the contents of panchanama recorded on the very same day i.e., 08.01.2017. Thus, it would clearly indicate that the petitioner has got knowledge as to transporting the said contraband and he facilitated transportation of the same and, therefore, the submission of the learned counsel for petitioner that the petitioner is only a driver and he has no knowledge, cannot be accepted.

7. Concerning the humanitarian ground, learned Special Public Prosecutor would submit that in the documents filed, age of the father of the petitioner is shown as 56 years, whereas, the age of the petitioner was shown as 49 years. Of course, it hardly matters, in case, father of the petitioner really met with an accident and died. It is only a humanitarian ground pressed by the petitioner intending to seek bail.

8. Now, turning to the main question, whether the petitioner is entitled to grant of regular bail or not, when, kept in view, the huge quantity of ganja and the knowledge of the petitioner, certainly, the submission made by the learned counsel for petitioner that the petitioner was only a driver and that he has no knowledge, would not favour the petitioner for grant of regular bail. So far as the delay in filing charge sheet i.e., beyond 180 days is concerned, the law is well

settled that the right to file an application for grant of bail would not arise, even if the charge sheet was filed beyond 180 days. Even otherwise, when the charge sheet was filed, the period of 180 days did not expire. Concerning the requirements of Section 37 (1) of the Act, the record made available do not reflect reasonable grounds for believing that the petitioner is not guilty of the offence with which he is charged and he is not likely to commit any offence while on bail, as declared by the Honourable Supreme Court in **State of Madhya Pradesh v. Kajad**¹. Hence, the petitioner is not entitled to the relief of regular bail sought for by him.

9. Accordingly, the present Criminal Petition is dismissed. Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

July 03, 2017.
MD

A. SHANKAR NARAYANA, J

¹ AIR 2001 SC 3317