

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

CRIMINAL PETITION No.235 OF 2017

ORDER:

This is a petition filed under Sections 437 and 439 of the Code of Criminal Procedure, 1973, for grant of bail.

2. The petitioner is an accused in Crime No.430 of 2016-17 of Paderu Prohibition and Excise Station, Visakhapatnam District alleged to have committed an offence punishable under Section 20(b)(ii)(c) read with 8 (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'NDPS Act').

3. The brief facts of the case are that on 13.12.2016, the Prohibition and Excise officials of Paderu, on reliable information, conducted a vehicle check and found the petitioner coming on the Hero Honda Unicorn bearing No.AP-31-AS-8379. The Excise officials stopped the vehicle and found a bag in possession of the petitioner/accused. Under a cover of mediators' report, 27 Kgs., of dry Ganja was seized and the excise police registered a case in Crime No.430 of 2016-17.

4. The petitioner mentioned in his application that he is innocent; he is falsely implicated in this case; he has been in judicial custody since 13.12.2016 and that he filed CrI.M.P.No.4311 of 2016 on the file of the Metropolitan

Sessions Judge-cum-Special Judge to try the offences under NDPS Act, Visakhapatnam, and the said petition was dismissed on 04.01.2017 on the ground that the Ganja seized from the possession of the accused was commercial quantity and there is a *prima facie* case against the petitioner and in view of the bar under Section 37 of the NDPS Act, he is not entitled for grant of bail. The petitioner further mentioned that he is aged about 60 years and is suffering from old age ailments and his health is deteriorating. On the ground of health, he sought for grant of bail.

5. The point for consideration is whether there are sufficient grounds for grant of bail.

6. Heard the arguments of learned counsel for the petitioner and the learned Public Prosecutor appearing for the State.

7. The petitioner is alleged to have been in possession of commercial quantity of 27 Kgs., of Ganja. As per Section 37 of N.D.P.S. Act, unless the Court comes to a conclusion that there is no *prima facie* case against the petitioner, he is not entitled for grant of bail. No doubt, learned counsel for the petitioner submits that the petitioner is aged 60 years and suffering with old age ailments but that cannot be a ground for grant of bail in a case where there is commercial quantity

of 27 Kgs., of dry Ganja found in possession of the petitioner/accused.

8. On considering the facts and circumstances of the case, I am not inclined to grant bail to the petitioner.

9. Accordingly, the Criminal Petition is dismissed.

JUSTICE G.SHYAM PRASAD

January 11, 2017

INL/PN/VHB



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