

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.4173 OF 2017

ORDER:

The present petition, under Sections 437 and 439 of the Code of Criminal Procedure, 1973, is filed by accused No.4 in Crime No.31 of 2017 of Rajanagaram P.S., Rajamahendravaram District, requesting to accord regular bail.

The offence alleged against the petitioner, who is arraigned as accused No.4 in the aforesaid crime, is punishable under Section 8 (c) read with 20 (b) (ii) (C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act').

Heard Sri Gulam Mustafa Rabbani, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Andhra Pradesh.

Learned counsel for the petitioner would mainly submit that nothing was seized from the physical possession of the petitioner or from the car in which he was proceeding and the contraband was seized only from Ashok Leyland van and the petitioner is projected as a purchaser of 440 kgs of ganja, worth Rs.22,00,000/-, in 22 bags and, therefore, no case is made out so far as the petitioner is concerned.

Learned counsel would, of course, fairly submit that earlier when the petitioner moved bail application in Criminal Petition No.2983 of 2017, this Court, by a common order dated 20.04.2017, dismissed the

same along with Criminal Petition No.2654 of 2017 filed by accused No.6.

Learned counsel, in the direction of changed circumstances, would point out again on merits even, but, however, according to him, in the earlier order passed by this Court rejecting the petitioner's request, certain rulings were referred to and, in all those rulings, the fact-situation would reveal that ganja was actually seized from the possession of the offenders involved therein, but such is not the situation in the present case. That has been one of the circumstances which the learned counsel tries to impress upon this Court. The second circumstance which the learned counsel intends to project is that the petitioner is an educationist and, therefore, it cannot be said that he is really involved in the present offences alleged against him and others. In that direction, the learned counsel would draw the attention to the photostat copy of the Certificate of Registration of an Educational Institution "AL MOMIN EDUCATIONAL SOCIETY" and the members details of that society, which is annexed to the said certificate, wherein the name of the present petitioner is shown at Sl.No.3 and, basing on it, the learned counsel would submit that since the petitioner is an educationist, he will never involve in the offences alleged and, therefore, it accounts for changed circumstances, since it was earlier not projected nor canvassed somehow. One more aspect learned counsel would point out is that four months period is over from the date of registration of crime and the substantial part of investigation is already completed and, viewing the same, requested to grant regular bail to the petitioner. On compassionate

ground, the learned counsel would submit that the petitioner's wife is in advanced stage of pregnancy and there is no male member to assist her. These have been the main submissions made now.

Whether the aforesaid submissions of the learned counsel do account for changed circumstances, is the question that requires determination.

If the answer is to be said, it is to be said in the negative, for the reason that, from the physical possession of the petitioner, contraband is seized. The remand case diary copy, which is submitted by learned counsel for the petitioner, would clearly indicate that the petitioner intended to purchase 440 kgs of ganja and, in fact, he along with his friends Mohammad Ibrahim – accused No.5 and Mohammad Khaleel – accused No.6 has joined the convoy in his vehicle - Maruti Suzuki Swift Desire car bearing No.TS 09- EL 4850 while going to Rajahmundry, where delivery had to take place. In such an event, certainly, it cannot be said that the petitioner's complicity is not finding place, more particularly, in the fact- situation occurring herein.

So far as the other ground that the petitioner is an educationist is concerned, no doubt, his name is shown as one of the members of the Educational Institution referred to in the above, but it is not as though he is totally dedicated or devoted to the services of educationist, as his occupation is shown as 'business' in the 4th vertical column of the members details appended to the said certificate. Certainly, in such an event, it would not enure to the benefit of the petitioner to seek regular

bail and would not account for any changed circumstance. So far as the compassionate ground that the wife of the petitioner is now in advanced stage of pregnancy and she has no male member to assist her, is concerned, certainly, it is not a ground when kept in view, the offences alleged against him.

On the other hand, learned Additional Public Prosecutor for the State of Andhra Pradesh would submit that the petitioner was involved in ten criminal cases earlier and, out of them, in nine cases, he was convicted for the offence of matka and, in one case in Crime No.80 of 2017 of Rayachoty Police Station, the investigation is under progress for the offences punishable under Sections 448, 354 and 506 read with 34 IPC.

When kept in view, the aforesaid circumstances, certainly, there are no merits in the present petition to enlarge the petitioner on bail.

Accordingly, the present Criminal Petition is dismissed.

Miscellaneous applications, if any pending in the Criminal Petition, stand closed.

A. SHANKAR NARAYANA, J

July 03, 2017

v v