

**THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY**

**CRIMINAL PETITION No.8704 of 2017**

**ORDER:**

This petition is filed, by the petitioners-accused Nos.1 to 4, under Sections 437 and 439 Cr.P.C., seeking bail in Crime No.86 of 2017 on the file of the Station House Officer, Prohibition and Excise Station, Bhavanipuram, Vijayawada, registered for the offence punishable under Section 8(c) read with 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act').

2. The learned counsel for the petitioners submitted that the petitioners were falsely implicated in this case for statistical purpose. He further submitted that even if the allegations made in the complaint are *ex facie* taken to be true and correct, no *prima facie* case is made out against the petitioners.

3. The learned Additional Public Prosecutor submitted that investigation is in progress; therefore, it is not a fit case to grant bail to the petitioners. He further submitted that if the petitioners are released on bail, there is every possibility to threaten the prosecution witnesses.

4. The case of the prosecution is that on 05.07.2017 on receiving reliable information about illegal transportation of ganja, the Prohibition and Excise Inspector, Bhavanipuram, Vijayawada, along with his staff proceeded to Railway Station, Vijayawada and found four persons at exit gate of west-south corner railway booking counter, Railway Station, Vijayawada along with two trolley bags. The Inspector of Police seized 67.2 kgs of ganja from

the possession of the petitioners by following due procedure. The Inspector of Police drew the required samples. After completion of the necessary formalities, the above case was registered and produced the petitioners before the concerned Court for judicial custody.

5. The petitioners filed CrI.M.P.No.1139 of 2017 on the file of the Court of the Metropolitan Sessions Judge at Vijayawada and the same was dismissed on 26.07.2017.

6. A perusal of the record reveals that the Prohibition and Excise Inspector seized 67.2 kgs. of ganja from the possession of the petitioners. The record further reveals that the Inspector of Police has strictly adhered to the procedure as contemplated under the NDPS Act.

7. As per the principle enunciated by the Hon'ble apex Court in **State of M.P. v. Kajad<sup>1</sup>, Collector of Customs v. Ahmadalieva Nodira<sup>2</sup>** and **Union of India v Sanjeev V. Deshpande<sup>3</sup>**, the court can grant bail to the persons involved in the cases under the NDPS Act, 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.

8. In the instant case, the ganja seized is 67.2 Kgs., which is a commercial quantity. A perusal of the record *prima facie* reveals the role played by the petitioners in the commission of the offence.

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<sup>1</sup> (2001) 7 SCC 673

<sup>2</sup> (2004) 3 SCC 549

<sup>3</sup> (2014) 13 SCC 1

9. Taking into consideration 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.

10. Accordingly, the Criminal Petition is dismissed.

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**T.SUNIL CHOWDARY, J**

Date: 11.10.2017

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