

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.8543 of 2017

ORDER:

1 This criminal petition is filed, by the petitioners/accused Nos.1 to 3 under Sections 437 and 439 Cr.P.C., seeking bail in Crime No.185 of 2017 on the file of the Station House Officer, IV Town Police Station Nellore registered for the offences punishable under Sections 3 and 4 of A.P Gaming Act and Sections 20 (B) (ii) (c) r/w section 8 (c) of NDPS Act.

2 Sri Vedula Venkata Ramana, the learned senior counsel appearing for the petitioners submitted that the petitioners were falsely implicated in this case for statistical purpose. He further submitted that even as per the allegations made in the complaint, ganja was not seized from the possession of the petitioners, therefore, no prima facie case is made out against the petitioners for the offences punishable under Sections 20 (B) (ii) (c) r/w Section 8 (c) of the NDPS Act. He further submitted that almost entire investigation is completed, therefore, it is a fit case to grant bail to the petitioners.

3 *Per contra*, the learned Additional Public Prosecutor submitted that nearly 21 kgs of ganja was seized from the possession of the petitioners, therefore, this is not a fit case to grant bail to the petitioners in view of Section 37 of the NDPS Act. He further submitted that the petitioners herein along with others are acting as bookies and conducting cricket betting. He further submitted that investigation is still in progress, therefore, this is a fit case to grant bail to the petitioners.

4 The case of the prosecution is that on 02.08.2017 at about 7.30 PM, the Inspector of Police, IV Town Police Station, Kavali received reliable information about cricket betting and storage of ganja. Immediately he informed the same to his superior officers, secured the presence of mediators and proceeded to Leela Mahal road, Nellore town and found one shop partly open. The Inspector of Police along with the mediators entered into the shop and found the petitioners along with laptop, cell phones and communicators. It is the further case of the prosecution that with the help of laptop and communicators, the petitioners were conducting cricket betting. The Inspector of Police seized nearly 21 kgs of ganja, 35 lakhs of cash, two cars, cell phones, two communicators and one laptop from the possession of the petitioners. The Inspector of police drew samples and after completion of necessary formalities, registered the above case.

5 A perusal of the record reveals that the Inspector of Police seized laptop, cell phones, communicators and two cars from the possession of the petitioners. A perusal of the record prima facie reveals that the petitioners with the help of the laptop were carrying on cricket betting by sitting in the shop. A perusal of the record reveals that the Inspector of Police seized nearly 35 lakhs of cash from the possession of the petitioners, that itself prima facie indicates the role played by the petitioners in commission of the alleged offence. As seen from the record, nearly 21 kgs of ganja was seized from the possession of the petitioners, 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. Ahmadalieva Nodira***² and ***Union of India v Sanjeev v. Deshpande***³, the court can grant bail to the persons involved in the cases registered 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.

7 A perusal of the record prima facie reveals the role of the petitioners in commission of the alleged offence. Taking into consideration the gravity of the offence alleged to have been committed by the petitioners as well as the stage of the investigation and also the principle enunciated in the cases cited supra, this court is of the considered view that this is not a fit case to grant anticipatory bail to the petitioners at this stage.

8 In the result, the petition is dismissed.

T.SUNIL CHOWDARY, J

Date: 19th September, 2017
Kvsn

¹ (2001) 7 SCC 673

² (2004) 3 SCC 549

³ (2014) 13 SCC 1