

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CRIMINAL PETITION No.7887 of 2017

ORDER:

This petition is filed, by the petitioners-accused Nos.7, 8 and 10, under Sections 437 and 439 Cr.P.C., seeking bail in Crime No.31 of 2017 on the file of the Station House Officer, Rajanagaram Police Station, Rajamahendravaram Urban, registered for the offence punishable under Section 8(c) read with 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. The learned counsel for the petitioners submitted that the petitioners have nothing to do with the alleged offence. He further submitted that the petitioners were falsely implicated in this case; therefore, it is a fit case to grant bail to the petitioners.

3. The learned Additional Public Prosecutor submitted that the petitioner was transporting ganja from Visakhapatnam to Hyderabad; therefore, it is not a fit case to grant bail to the petitioners.

4. The case of the prosecution is that on 16.02.2017 the Inspector of Police, Rajanagaram Police Station, intercepted the vehicles i.e., (1) Bolero pickup van bearing No.AP 05 TD 5997 (2) Maruthi Swift Desire Car bearing No.TS 09 EL 4850 (3) Ashok Leyland Van bearing No.OD 30-3198 and (4) Bolero pickup Van bearing No.OD 10-A 9407. The Inspector of Police seized 440 kgs. of ganja from Ashok Leyland Van bearing No.OD 30-3198 by following due procedure. The Inspector of Police apprehended the petitioners along with the other accused. After completion of the

necessary formalities, the Inspector of Police, Rajanagaram Police Station, registered the above case and produced the petitioners before the concerned Court.

5. The petitioners filed CrI.M.P.No.283 of 2017 on the file of the Court of the I Additional District and Sessions Judge, East Godavari at Rajamahendravaram, and the same was dismissed on 17.03.2017.

6. A perusal of the record reveals that the petitioner along with the other accused was transporting ganja from Visakhapatnam to Hyderabad. This Court dismissed Criminal Petition Nos.3817, 3981 and 6542 of 2017 filed by the other accused and directed the trial Court to dispose of the matter as expeditiously as possible.

7. As per the principle enunciated by the Hon'ble apex Court in **State of M.P. v. Kajad¹**, **Collector of Customs v. Ahmadalieva Nodira²** and **Union of India v Sanjeev V. Deshpande³**, 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 440 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. The record further reveals that the petitioners belong to Orissa

¹ (2001) 7 SCC 673

² (2004) 3 SCC 549

³ (2014) 13 SCC 1

State. As rightly pointed out by the learned Additional Public Prosecutor, it may not be possible for the prosecution agency to secure presence of the petitioners at the time of trial, if they are released on bail.

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.

Date: 03.10.2017
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T.SUNIL CHOWDARY, J

