

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.1855 OF 2017

ORDER:

This criminal petition is filed under Sections 437 and 439 of Cr.P.C to enlarge the petitioner/A-6 on bail in connection with Crime No.1 of 2017 of Mothugudem Police Station, East Godavari District, registered for the offences punishable under Sections 8(c) read with 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') and he is in judicial custody since 11.01.2017.

2. As seen from the material on record, the Circle Inspector of Police, Chinturu Circle, received credible information on 10.01.2017 at 02.00 PM about illegal transportation of Ganja, conducted vehicle check along with staff securing mediators at Lakkavaram Junction and on seeing the police party, A-3 to A-6, who were coming from Maredumilli side proceeding towards Chinturu on a Tata Indica car bearing No. AP 09 BC 2169 and lorry bearing No. AP 12V 2851 stopped the vehicle and tried to skulk away. But the police apprehended the three persons with the help of others and on interrogation they confessed that they are transporting Ganja. Raid party, after following necessary procedure, seized two bags of Ganja from the dicky of Tata Indica car and 17 bags from the lorry cabin under cover of mediators report, lifted samples as per procedure and on the strength of the mediators report, the police registered the above crime for the above offences.

3. According to the petitioner, the petitioner is a driver and he had no knowledge about the goods being transported in the

lorry. Therefore, he cannot be saddled with any criminal liability and that he is a poor man and since he is only the bread earning person, his family is depending upon him and, therefore, he sought for a bail.

4. No doubt, the petitioner is a driver, but transportation of ganja without any licence or authorisation is prohibited under Section 8(c) of the NDPS Act. The person who is found transporting ganja is equally liable along with the person who engaged the lorry and so far as the culpability is concerned, in view of Sections 35 & 54 of the NDPS Act, the burden is upon the petitioner to prove that he had no knowledge about the contents of bags. Till the presumption is rebutted, the Court shall presume that he had knowledge about the contents. Therefore, it is not a ground to enlarge the petitioner on bail in view of reversal burden that is placed on the petitioner/A-6 under Sections 35 & 54 of the NDPS Act.

5. In the result, the Criminal Petition is dismissed. Pending miscellaneous petitions in the criminal petition, if any, shall stand closed.

JUSTICE M.SATYANARAYANA MURTHY

Date: 9th March, 2017

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