

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CRIMINAL PETITION No.9013 of 2017

ORDER:

This petition is filed, by the petitioner-accused No.2, under Sections 437 and 439 Cr.P.C., seeking bail in NDPS S.C.No.121 of 2017 on the file of the Court of the Special Judge for trial of NDPS Cases-cum-I Additional District and Sessions Judge, Rajamahendravaram, East Godavari District, 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, 'the NDPS Act').

2. The learned counsel for the petitioner submitted that the petitioner was falsely implicated in this case; therefore it is a fit case to grant bail to the petitioner.

3. The learned Additional Public Prosecutor submitted that the petitioner is not entitled for bail in view of Section 37 of the NDPS Act.

4. The case of the prosecution is that on 17.01.2017 the Inspector of Police, Bommuru Police Station, intercepted Van bearing No.AP 30 X 5678 at Hukkumpet Centre, Rajahmundry. The Inspector of Police, after following the due procedure, seized 277 kgs. of ganja from the possession of the petitioner and other accused. After completion of the necessary formalities, the Inspector of Police, Bommuru Police Station, registered the above case and produced the petitioner before the concerned Court.

5. The petitioner along with accused No.3 filed CrI.M.P.No.182 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 16.02.2017.

6. 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.

7. In the instant case, the ganja seized is 277 Kgs., which is a commercial quantity. A perusal of the record *prima facie* reveals the role played by the petitioner in the commission of the offence.

8. 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 petitioner.

9. Accordingly, the Criminal Petition is dismissed.

T.SUNIL CHOWDARY, J

Date: 03.10.2017
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¹ (2001) 7 SCC 673

² (2004) 3 SCC 549

³ (2014) 13 SCC 1