

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

CRIMINAL PETITION No. 238 OF 2017

ORDER

This petition is filed by the petitioner, under Section 438 Cr.P.C. for grant of Anticipatory bail in Crime No.104 of 2013-14 of Prohibition & Excise Station, Chodavaram.

2. The petitioner is the accused in Crime No.104 of 2013-14 of Prohibition and Excise Station, Chodavaram.

3. This memorandum of criminal petition is arising out of order, dated 05.10.2016, in CrI.M.P.No.2768 of 2016, on the file of Metropolitan Sessions Judge-cum-I Additional District & Sessions Judge, Visakhapatnam, whereby the learned Sessions Judge dismissed the said CrI.M.P. for grant of Anticipatory bail on the ground that petitioner/accused is the owner of auto bearing No.AP 31U 9186 in which the commercial quantity of 46 kgs of ganja packed in two bags were seized.

4. The petitioner, being aggrieved by the impugned order, has preferred this criminal petition. It is submitted that the entire investigation is completed and charge sheet has been filed in this case. There is no likelihood of tampering of evidence in this case.

5. It is further submitted that the petitioner has filed CrI.M.P.No.2768 of 2016 in Crime No.104/2013-14 of Prohibition & Excise Station, Chodavaram, and the same was dismissed on 05.10.2016. The petitioner is apprehending arrest in the hands of Police and therefore, he sought for grant of anticipatory bail.

6. Heard the learned counsel for the petitioner, Sri Sravan Kumar Naidana, and the learned Public Prosecutor for the State.

7. The point for consideration in this matter is whether the petitioner is entitled for grant of anticipatory bail or not?

8. Learned counsel for the petitioner submits that originally the Police registered a case against one G. Sreenivasa Rao and subsequently, during the course of investigation, the Police have removed the name of G. Sreenivasa Rao and added the name of the petitioner on the pretext that the petitioner is the owner of the alleged auto bearing No.AP 31U 9186, in which the commercial quantity of 46 kgs of ganja was being transported. Learned counsel further submits that the petitioner is not transporting the said Ganja in his auto and that he is not in the possession of the said Ganja and that the petitioner was not present at the time of seizure of the alleged auto and on these grounds, sought for anticipatory bail.

9. Usually, granting of anticipatory bail in cases of huge quantity of Narcotic drugs does not arise in view of the provision under Section 37 of the NDPS Act. Admittedly, this is a case where 46 Kgs of Ganja was found in two bags containing 23 Kgs in each bag with seeds, stalks and flowering tops. The dispute now is whether the petitioner is transporting the said alleged Ganja in his auto.

10. As per the submissions of the learned Public Prosecutor, the Prohibition & Excise Station, Chodavaram, registered a case against one G. Sreenivasa Rao and later, during the course of investigation, the Police came to know that the petitioner is the owner of the auto and therefore, the Police registered a case against the petitioner and they are investigating the matter.

11. Considering the facts and circumstances of the case, there are no valid grounds for granting anticipatory bail to the petitioner.

12. Accordingly, the Criminal Petition is dismissed. Miscellaneous Petitions, if any, pending in this criminal petition shall stand closed.

JUSTICE G.SHYAM PRASAD

Date: 11th January, 2017

KL/RNS



HONOURABLE SRI JUSTICE G.SHYAM PRASAD



CRIMINAL PETITION No.238 OF 2017

Dated: 11th January, 2017

KL/Rns