

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.7701 of 2017

ORDER:

This criminal petition is filed by the petitioner-accused No.2, under Sections 437 and 439 of Cr.P.C., seeking bail in Crime No.701 of 2017 on the file of the Station House Officer, Uppal Police Station, Rachakonda, for the offence under Section 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act (for short, the NDPS Act).

2. The learned counsel for the petitioner submitted that at the time of alleged incident, the petitioner was travelling in the Auto without knowing that Ganja was being transported therein; therefore, it is a fit case to grant bail to the petitioner. *Per contra*, learned Additional Public Prosecutor submitted that the petitioner is not entitled to bail in view of Section 37 of the NDPS Act; therefore, it is not a fit case to grant bail to the petitioner.

3. It is the case of the prosecution that on 24.7.2017, on receiving credible information, the Investigating Agency intercepted Auto bearing No.TS 12 UA 5101 in Laxminarayana Colony Road, Uppal, and seized five bags containing Ganja. After completion of necessary formalities, the Investigating Agency registered the above case.

4. The petitioner filed Crl.M.P. No.3188 of 2017 on the file of the Court of Metropolitan Sessions Judge, Cyberabad at L.B. Nagar, and the same was dismissed on 18.8.2017.

5. A perusal of the record reveals that 37 Kgs of Ganja was seized from the Auto, in which the petitioner was travelling. Whether the petitioner travelled in the Auto without knowing that Ganja was being transported in the vehicle, or not, will come to light during the course of investigation. The record reveals that the investigation is in progress.

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 allegedly involved in the cases under the NDPS Act, though the contraband seized is a commercial quantity, if the court satisfied 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. Having regard to the facts and circumstances of the case and 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.

8. Accordingly, the criminal petition is dismissed.

T.SUNIL CHOWDARY, J

August 31, 2017
YS

¹ (2001) 7 SCC 673

² (2004) 3 SCC 549

³ (2014) 13 SCC 1