

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.6295 of 2017

ORDER:

This petition is filed, by the petitioners/accused Nos.1 and 2, under Sections 437 and 439 Cr.P.C., seeking regular bail in Crime No.85 of 2017 on the file of the Station House Officer, Prohibition and Excise Station, Bhavanipuram, Vijayawada, registered for the offence punishable under Section 8(c) read with 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act (for short, 'NDPS Act').

2. The learned counsel for the petitioners submitted that the Police seized 18 kgs. of ganja from the possession of petitioner No.1 and 10 kgs. of ganja from the possession of petitioner No.2; therefore, the quantity seized is less than commercial quantity; therefore, the petitioners are entitled for bail. He further submitted that the investigating officer has not followed the procedure as contemplated under Section 50 of the NDPS Act that itself falsifies the prosecution version. He also submitted that the learned Metropolitan Sessions Judge, Vijayawada, dismissed the bail petition of the petitioners on erroneous grounds.

3. *Per contra*, the learned Additional Public Prosecutor submitted that the petitioners were transporting ganja of 28 kgs; therefore, it is not a fit case to grant bail to them at this stage. He further submitted that the investigation is in progress and if the petitioners are released on bail, there is every chance to tamper the prosecution witnesses.

4. As per the allegations made in the complaint on 02.07.2017 at about 4:00 PM the Prohibition and Excise Officials went to Vijayawada Railway Station to conduct search and they found two persons carrying huge bags on their shoulders. On suspicion, the excise officials stopped those two persons, who disclosed their names i.e., petitioner Nos.1 and 2. The excise officials seized 18 kgs. of ganja from the possession of petitioner No.1 and 10 kgs. of ganja from the possession of petitioner No.2. After following the procedure, the excise officials have taken the samples and produced the petitioners before the concerned Court for judicial custody.

5. A perusal of the record reveals that the investigation is in progress. If the petitioners are released on bail at this stage, the possibility of influencing the prosecution witnesses cannot be ruled out.

6. Taking into consideration the gravity of the offence alleged to have been committed by the petitioners and also the stage of investigation, this Court is of the considered view that it is not a fit case to grant bail to the petitioners at this stage.

7. Accordingly, the Criminal Petition is dismissed.

T.SUNIL CHOWDARY, J

Date: 03.08.2017
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