

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.8740 of 2017

ORDER:

This criminal petition is filed by the petitioner-accused No.1, under Sections 437 and 439 of Cr.P.C., seeking bail in Crime No.144 of 2017 on the file of the Station House Officer, Kavali I-Town Police Station, SPSR Nellore District, for the offences punishable under Section 20(b)(ii)(C) read with 8(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) and Sections 3 and 4 of A.P. Gaming Act.

2. The learned counsel for the petitioner submitted that the petitioner was falsely implicated in this case. He further submitted that Ganja alleged to have been seized from the possession of the petitioner is not a commercial quantity; therefore, it is a fit case to grant bail to the petitioner. *Per contra*, learned Additional Public Prosecutor representing the State submitted that the petitioner along with other accused was carrying on cricket betting and Ganja business. He further submitted that the investigation is in progress; therefore, it is not a fit case to grant bail to the petitioner.

3. The case of the prosecution is that on 02.8.2017, at about 07.15 pm, on receiving reliable information about cricket betting, the Inspector of Police, Kavali I-Town Police Station, along with staff, proceeded to house No.8-18-19A, Kalugolammapet, Kavali Town, caught hold the petitioner along with three other accused and seized two cars, Rs.8,50,000/- of cash, cell phones, one laptop, communicators and 20.5 Kgs of Ganja. The further case is that the petitioner along with accused Nos.2 to 4 was conducting cricket betting in Kavali Town and some other places. After

completion of necessary formalities, the Inspector of Police registered the above case.

4. The petitioner filed CrI.M.P.No.368 of 2017 on the file of the Court of I Additional District & Sessions Judge, Nellore, under Section 439 of Cr.P.C., and the same was dismissed on 06.9.2017.

5. A perusal of the record reveals that the Inspector of Police seized laptop, communicators, cell phone, cash and Ganja from the possession of the petitioner and other accused. The record further reveals that the petitioner along with other accused conducting online cricket betting. The petitioner is accused No.10 in Crime No.185 of 2017 registered for the offences under Section 20(b)(ii)(C) read with 8(c) of NDPS Act and Sections 3 and 4 of A.P. Gaming Act.

6. The predominant contention of learned counsel for the petitioner is that the Police seized only 10.3 Kgs from the possession of the petitioner, which is not a commercial quantity. A perusal of the record reveals that on the same day from the same premises, the Inspector of Police, Nellore IV Town Police Station, seized 20.5 Kgs of Ganja. There is no provision in NDPS Act for apportionment of Ganja basing on number of accused involved. The entire quantity has to be taken into consideration as one and the same.

7. As per the principle enunciated by the Hon'ble apex Court in **State of M.P. v. Kajad**¹, **Collector of Customs v. Ahmadaliev Nodira**²

¹ (2001) 7 SCC 673

² (2004) 3 SCC 549

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. A perusal of the record reveals that the petitioner involved in another case also. The record *prima facie* reveals the role played by the petitioner in the commission of the offence.

8. Having regard to the facts and circumstances of the case and also the principle enunciated in the case cited supra, this Court is of considered view that it is not a fit case to grant bail to the petitioner.

9. Accordingly, the Criminal Petition is dismissed.

October 09, 2017
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T.SUNIL CHOWDARY, J

³ (2014) 13 SCC 1