

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.9749 of 2017

ORDER:

This petition is filed, by the petitioner-accused No.2, under Sections 437 and 439 Cr.P.C., seeking bail in Crime No.99 of 2017 on the file of the Station House Officer, Gandepalli Police Station, East Godavari District, registered for the offence punishable under Section 8(c) read with 20(b)(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, who is accused No.2, was falsely implicated in this case. He further submitted that the 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.

3. The learned Additional Public Prosecutor submitted that the petitioner along with accused No.1 purchased 80 kgs. of ganja in the agency area of Visakhapatnam and transporting the same to East Godavari District. He further 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 22.06.2017 the petitioner along with accused No.1 purchased 80 kgs. of ganja from an unknown person in agency area of Visakhapatnam with an intention to transport the same to Chennai. The petitioner along with accused No.1 engaged accused Nos.3 to 9 for transportation of the ganja on two wheelers from agency area of Visakhapatnam to East Godavari District. On 25.06.2017 the Inspector of Police, Jaggampeta Circle, on receiving reliable

information about the illegal transportation of ganja proceeded to Z.Ragampeta Village. The Inspector of Police intercepted four two wheelers i.e., 1. Hero Honda Passion Plus Motorcycle bearing Reg.No.AP-05-AR-9391 from the possession of accused No.1 and petitioner (accused No.2); 2. Hero duet Scooty bearing Reg.No. AP-31-DV-5754 from the possession of accused Nos.3 and 4; 3. Hero HF Delux Motorcycle bearing Reg.No.AP-31-DV-5461 from the possession of accused Nos.5 and 6; and 4. Bajaj Pulsar Motorcycle bearing Reg.No.AP-31-BQ-4284 from the possession of accused Nos.7 to 9 and seized in total 80 kgs. of ganja. After completion of the necessary formalities, the Inspector of Police, Jaggampeta Circle, registered the above case and produced the petitioner before the concerned Court for judicial custody.

5. The petitioner filed CrI.M.P.No.1376 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 16.09.2017.

6. A perusal of the record reveals that the Inspector of Police seized 80 kgs. of ganja from the possession of the petitioner and other accused. A perusal of the record further reveals that the petitioner along with accused No.1 purchased 80 kgs. of ganja in agency area of Visakhapatnam with an intention to transport the same to Chennai.

7. As per the principle enunciated by the Hon'ble apex Court in **State of M.P. v. Kajad¹, Collector of Customs v. Ahmadalieva**

¹ (2001) 7 SCC 673

Nodira² and **Union of India v Sanjeev V. Deshpande**³, 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.

8. In the instant case, 80 kgs. of ganja was seized from the petitioner and other accused, 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.

9. 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.

10. Accordingly, the Criminal Petition is dismissed.

T.SUNIL CHOWDARY, J

Date: 25.10.2017

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² (2004) 3 SCC 549

³ (2014) 13 SCC 1