

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CRIMINAL PETITION No.7058 of 2017

ORDER:

This petition is filed, by the petitioner-accused No.1, under Sections 437 and 439 Cr.P.C., seeking bail in Crime No.364 of 2016 on the file of the Station House Officer, Bommuru Police Station, Rajamahendravaram Urban, registered for the offence punishable under Section 8(c) read with 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. The learned counsel for the petitioner submitted that the petitioner has nothing to do with the alleged offence. He further submitted that even if the allegations made in the complaint are *ex facie* taken to be true and correct, no *prima facie* case is made out against the petitioner; therefore it is a fit case to grant bail to the petitioner.

3. The learned Additional Public Prosecutor submitted that the petitioner was transporting ganja from Narsipatnam to Hyderabad; therefore, it is not a fit case to grant bail to the petitioner.

4. The case of the prosecution is that on 28.11.2016 at about 5:00 PM the Inspector of Police, Bommuru Police Station, intercepted Tata Van bearing No.AP 02 TC 4882 within the limits of Rajahmundry Town. After following the due procedure, he seized 1235 kgs. of ganja from the above said vehicle. After completion of the necessary formalities, the Inspector of Police, Bommuru Police Station, registered the above case. The petitioner filed CrI.M.P.No.1797 of 2016 on the file of the Court of the I Additional District and Sessions Judge, East Godavari at Rajamahendravaram and the same was dismissed on 22.12.2016.

5. A perusal of the record reveals that the petitioner was transporting the ganja in Tata Van bearing No.AP 02 TC 4882. Whether the petitioner has committed the alleged offence or not will come to light during the course of trial.

6. As per the principle enunciated by the Hon'ble apex Court in **State of M.P. v. Kajad¹, Collector of Customs v. Ahmadalieva Nodira²** and **Union of India v Sanjeev V. Deshpande³**, 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.

7. In the instant case, the ganja seized is 1235 Kgs., 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.

8. 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.

9. Accordingly, the Criminal Petition is dismissed.

T.SUNIL CHOWDARY, J

Date: 03.10.2017
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¹ (2001) 7 SCC 673

² (2004) 3 SCC 549

³ (2014) 13 SCC 1