

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CRIMINAL PETITION No.7399 of 2017

ORDER:

This petition is filed, under Sections 437 and 439 Cr.P.C., by the petitioner-accused No.1, seeking bail in Crime No.22 of 2017 on the file of the Station House Officer, V.R.Puram Police Station, East Godavari District, 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 strenuously submitted that the police foisted a false case against the petitioner. He further submitted that the entire investigation is completed; therefore, it is a fit case to grant bail to the petitioner.

3. *Per contra*, the learned Additional Public Prosecutor opposed the bail on the ground that the investigation is in progress.

4. The case of the prosecution is that on 18.05.2017 on receiving credible information about illegal transportation of ganja, the Inspector of Police, Yetapaka Circle along with Gazetted Officers, mediators and his staff proceeded to Sabari Bridge near V.R.Puram to check the vehicles. During checking, they intercepted Maruti Swift Car bearing No.MH 46 W 5007 and seized 103 kgs. of ganja from the possession of the petitioner and accused No.2. After drawing the samples, the Inspector of Police registered the above case against the petitioner and accused No.2 on the same day. On 18.05.2017 the petitioner was produced before the Judicial First Class Magistrate, Rampachodavaram, and remanded to judicial custody.

5. The petitioner filed Crl.M.P.No.933 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 20.06.2017 on the ground that the petitioner suppressed the factum of filing of earlier bail petition vide Crl.M.P.No.877 of 2017.

6. A perusal of the record reveals that the investigation is in progress. As contended by the learned counsel for the petitioner whether the petitioner was falsely implicated or not will be decided during the course of trial. While deciding the bail petitions, the Court has to take into consideration whether there is any *prima facie* material against the petitioner or not. In the instant case, the police red handedly caught hold the petitioner and seized 103 kgs. of ganja.

7. 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.

8. In the instant case, the ganja seized is 103 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.

¹ (2001) 7 SCC 673

² (2004) 3 SCC 549

³ (2014) 13 SCC 1

9. Having regard to 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: 06.09.2017

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