

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.8191 of 2017

ORDER:

This criminal petition is filed by the accused Nos.1 and 2, under Section 438 of Cr.P.C., to grant pre arrest bail in Crime No.109 of 2017 on the file of the Station House Officer, Prohibition & Excise Station, Chittoor Urban, for the offence punishable under Section 8(c) read with Section 20(b)(ii) of the Narcotic Drugs and Psychotropic Substances Act (NDPS Act).

2. The learned counsel for the petitioners submitted that the petitioners were falsely implicated in this case; therefore, it is a fit case to grant pre arrest bail to the petitioners. *Per contra*, learned Additional Public Prosecutor representing the State opposed the bail application.

3. The case of the prosecution is that on 20.4.2017, at about 8.00 am, the Prohibition & Excise Officials seized 21.370 Kgs of dry Ganja from the possession of the petitioners. After following due procedure, the petitioners were produced before the concerned Court for judicial custody.

4. The petitioners filed CrI.M.P.Nos.248 and 249 of 2017 on the file of the Court of I Additional District and Sessions Judge, Chittoor, under Section 438 of Cr.P.C., and the same were dismissed by common order dated 08.6.2017. The petitioners also filed CrI.M.P. No.484 of 2017 before the same court, under Section 438 of Cr.P.C., and the same was dismissed on 04.8.2017.

5. A perusal of the record reveals that the Investigating Agency seized 21.370 Kgs of dry Ganja from the possession of the petitioners. The record further reveals that the investigation is in progress.

6. As per the principle enunciated by the Hon'ble apex Court in **State of M.P. v. Kajad**¹, **Collector of Customs v. Ahmadalieva Nodira**² and **Union of India v Sanjeev v. Deshpande**³, the court can grant bail to the persons allegedly involved in the cases registered 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.

7. Taking into consideration the gravity of the offence and the stage of the investigation, this court is of considered view that it is not a fit case to grant pre arrest bail to the petitioner.

8. Accordingly, the criminal petition is dismissed.

T.SUNIL CHOWDARY, J

September 11, 2017
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¹ (2001) 7 SCC 673

² (2004) 3 SCC 549

³ (2014) 13 SCC 1