

HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.7393 of 2017

ORDER:

This criminal petition is filed, by the petitioner-accused No.5, under Section 438 Cr.P.C., seeking pre-arrest bail in Crime No.117 of 2017 on the file of Station House Officer, Anakapalli Police Station, Visakhapatnam District, registered for the offence punishable under Section 8 (c) read with 20 (b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act').

2. Learned counsel for the petitioner submitted that the petitioner was falsely implicated in this case due to political rivalry. He further submitted that even if the allegations made in the compliant are taken to be true and correct, no *prima facie* case is made out against the petitioner. ***Per contra***, learned Additional Public Prosecutor submitted that the petitioner escaped from the scene of offence, therefore, it is not a fit case to grant pre-arrest bail to the petitioner. He further submitted that the petitioner is not entitled for bail in view of Section 37 of the NDPS Act.

3. The facts leading to filing of the present petition are briefly as follows:

On 23.05.2017, the Traffic Police had been conducting search in Anakapalli to prevent extremist activities. On the same day, at about 4.00 p.m., one motor cyclist and two autos came from Chodavaram side. On seeing the Police, the motor cyclist fled away towards fish market. The police intercepted the two autos and interrogated those two persons, who disclosed their names as Kolli Pydibabu @ Pydithalli Naidu (petitioner No.1-accused No.1) and Vanjuvajula Nagaraju (petitioner No.2-accused No.2) respectively. The Police seized two autos

and 240 kgs., of Ganja under the cover of Mediatornama. After completion of necessary formalities, the Police registered a case in Crime No.117 of 2017 and produced the petitioners before the concerned Court on 23.05.2017 itself for judicial custody.

4. A perusal of the record reveals that the petitioner ran away from the spot. 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 registered 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.

5. A perusal of the record *prima facie* reveals the role played by the petitioner in the commission of offence. The regular bail petitions filed by accused Nos.1 to 4 were dismissed by this Court on different dates.

6. 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 Anticipatory Bail to the petitioner.

7. Accordingly, the Criminal Petition is dismissed.

T.SUNIL CHOWDARY, J

SEPTEMBER 08, 2017
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¹ (2001) 7 SCC 673

² (2004) 3 SCC 549

³ (2014) 13 SCC 1

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Date:08.09.2017

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