

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.8360 of 2017

ORDER:

1 This criminal petition is filed, by the petitioners/accused Nos.1 to 5 under Sections 437 and 439 Cr.P.C., seeking bail in Crime No.58 of 2017 on the file of the Station House Officer, L.Kota Police Station Vizianagaram district registered for the offences punishable under Sections 8 (c) r/w 20 (b) (ii) of 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 bail to the petitioners.

3 *Per contra*, the learned Additional Public Prosecutor submitted that the petitioners belong to the States of Bihar and Odisha and hence if the petitioners are granted bail, they may not face the trial. He further submitted that in view of Section 37 of the NDPS Act, the petitioners are not entitled to bail.

4 The case of the prosecution is that on 27.06.2017 the S.I. of Police, L.Kota Police Station, on receiving reliable information about transportation of ganja, after following due procedure, proceeded to Malliveedu village and observed one TATA Indica car bearing No.OR 02 AV 8118 coming from Araku side. The S.I. of Police intercepted the vehicle and interrogated the inmates of the car, who in turn disclosed their identify as accused Nos.1 to 5 herein. The S.I. of Police seized 40 kgs of ganja from the car and drew samples and registered the above case.

5 The petitioners filed CrI.M.P.No.380 of 2017 on the file of the Court of the I Additional District & Sessions Judge, Vizianagaram, under Section 439 Cr.P.C. and the same was dismissed on 27.08.2017.

6 It is the case of the prosecution that the petitioners are transporting ganja for personal gain. A perusal of the record further reveals that the S.I. of Police, L.Kota Police Station seized 40 kgs of ganja from the possession of the petitioners. A perusal of the record reveals the role played by the petitioners in commission of the offence. More over the investigation is still in progress.

7 As per the principle enunciated by the Hon'ble apex Court in ***State of M.P. v. Kajad***¹, ***Collector of Customs v. Ahmadaliev Nodira***² and ***Union of India v Sanjeev v. Deshpande***³, the court can grant bail to the persons involved in the cases registered under the NDPS Act, even 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 A perusal of the record prima facie reveals the role of the petitioners in commission of the alleged offence. Taking into consideration the gravity of the offence alleged to have been

¹ (2001) 7 SCC 673

² (2004) 3 SCC 549

³ (2014) 13 SCC 1

committed by the petitioners, this court is of the considered view that this is not a fit case to grant anticipatory bail to the petitioners.

9 In the result, the petition is dismissed.

T.SUNIL CHOWDARY, J

Date: 14th September, 2017

Kvsn

