

**THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY**

**CRIMINAL PETITION No.6257 of 2017**

**ORDER:**

1 This criminal petition is filed, by the petitioner/accused No.3 under Section 438 Cr.P.C., seeking anticipatory bail in Crime No.42 of 2017 on the file of the Station House Officer, Devarapalli Police Station Visakhapatnam District registered for the offences punishable under Section 20 (b) (i), (ii) (c) r/w 8(c) of NDPS Act.

2 The learned counsel for the petitioner submitted that nothing has been seized from the possession of the petitioner. He further submitted that the police investigated into the matter and filed charge sheet, therefore, the petitioner is entitled to pre-arrest bail.

3 *Per contra*, the learned Additional Public Prosecutor submitted that the petitioner escaped from the scene of offence, therefore, he is not entitled to pre-arrest bail in view of Section 37 of the NDPS Act.

4 The case of the prosecution is that on 30.05.2017, on receiving reliable information about transportation of ganja, the S.I. of Police, Devarapalli Police Station, rushed to Srirampuram village Y Junction and intercepted a van bearing No.AP 31 TW 7888 in which three persons were travelling. On seeing the police, one person fled away from the spot i.e. the petitioner herein. The Sub-Inspector of Police seized 2000 kgs of ganja from the van and drew samples. After following the due procedure, the Inspector of Police registered the above case.

5 The petitioner filed CrI.M.P.No.1876 of 2017 under Section 438 Cr.P.C. on the file of the Court of the Metropolitan Sessions Judge-cum-Special Judge for Trial of offences under NDPS Act, Visakhapatnam and the same was dismissed on 03.07.2017.

6 A perusal of the record reveals that on 30.05.2017, the petitioner along with other accused was proceeding from G.Madugula to Visakhapatnam on the van bearing No.AP 31 TW 7888. A perusal of the record further reveals that the S.I. of Police seized 2000 kgs of ganja from the possession of the petitioner and others.

7 As per the principle enunciated by the Hon'ble apex Court in ***State of M.P. v. Kajad*<sup>1</sup>, *Collector of Customs v. Ahmadalieva Nodira*<sup>2</sup> and *Union of India v Sanjeev v. Deshpande*<sup>3</sup>**, 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 petitioner in commission of the alleged offence. Taking into consideration the gravity of the offence alleged to have been committed by the petitioner, this court is of the considered view that this is not a fit case to grant anticipatory bail to the petitioner.

9 In the result, the petition is dismissed.

**T.SUNIL CHOWDARY, J**

Date: 4<sup>th</sup> October, 2017

**Kvsn**

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<sup>1</sup> (2001) 7 SCC 673

<sup>2</sup> (2004) 3 SCC 549

<sup>3</sup> (2014) 13 SCC 1