

SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.1922 OF 2018

ORDER:

This petition is filed, under Sections 437 and 439 of the Criminal Procedure Code, 1973, seeking to enlarge the petitioner, who is A2, on bail in Crime No.38 of 2017, on the file of P.S.G.Madugula Police Station, Visakhapatnam District, for the offences punishable under Sections 20(b)(ii)(c) r/w 8(c) of NDPS Act.

2. Heard the counsel for the petitioner and the Public Prosecutor appearing for the respondent.

3. The contraband involved in this case is 205 Kgs of Ganza. The counsel for the petitioner fairly submits, that earlier this Court dismissed the bail petition, which was filed by this petitioner, by virtue of the orders in CrI.P.No.315 of 2018, by observing that the petitioner's counsel could not make out any grounds to bring the petitioner out of the purview of Section 37 of NDPS Act. The counsel in that regard, now, submits that the confession of this petitioner has led to the recovery of the contraband from the house of A1 and that except the confession of this petitioner, there is no other material. He also submits that no G.D. entry was made by the police in spite of information being received beforehand and that it is only after registering the crime, that G.D. entry was made. He also contends that the mediators are from the same village. But, in the considered opinion of this court, the above facts would not, by themselves, make the case of the prosecution doubtful. Unless the witnesses in that regard are examined and

explanation coming forth from them is considered, it cannot be said that the said lapses would entitle the petitioner for grant of bail.

4. Hence, in view of the above, this Court opines that Section 37 of NDPS Act still comes in the way of granting bail to the petitioner, in spite of the fact that this is the first offence committed by the petitioner.

5. Accordingly, the Criminal Petition is dismissed.

As a sequel, miscellaneous petitions pending consideration, if any, in this case shall stand closed.

05.03.2018
SS



T.RAJANI, J