

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
WEDNESDAY, THE SEVENTH DAY OF MARCH, TWO THOUSAND AND
EIGHTEEN
: PRESENT :
THE HONOURABLE SMT JUSTICE T. RAJANI

CRLP .No. 2000 of 2018

Between:-

R. Amsarajan, S/o. Rajansam, Occ : Driver, R/o. 1-16, Pillayar, Kovili Street,
Thekkatir, Madura, Tamil Nadu.

..... Petitioner/Accused No. 1.

AND

State of Andhra Pradesh, Rep. by Public Prosecutor,
High Court of Judicature at Hyderabad.

.....Respondent/Complainant.

Petition filed under Sections 437 & 439 Cr.P.C. praying that in the
circumstances stated in the Grounds of Criminal Petition, the High Court may be
pleased to release the petitioner/Accused on Bail in SC.No. 178 of 2017 on the file
of Metropolitan Sessions Judge, Vijayawada.

The petition coming on for hearing, upon perusing the memorandum of grounds
filed in support thereof and upon hearing the arguments of Sri V. Roopesh Kumar
Reddy, Advocate for the Petitioner and of Public Prosecutor(AP) on behalf of
Respondent-State, the Court made the following ORDER :-

SMT JUSTICE T.RAJANI
CRIMINAL PETITION No.2000 OF 2018

ORDER:

This Criminal Petition is filed seeking for grant of bail to the petitioner, who is accused No.1, in Crime No.378 of 2017 on the file of the Station House Officer, Patamata Police Station, Vijayawada City.

2. The offence alleged is under Section 8(c) R/w.20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act').

3. Heard the learned counsel for the petitioner, learned Public Prosecutor appearing for the respondent-State, and perused the record.

4. The case of the prosecution is that 75 K.Gs of ganja,altogether is seized from 5 accused. Section 37 of the NDPS Act does not permit the court to grant bail to the petitioner/accused No.1, where contraband involved is commercial quantity.

5. Learned counsel for the petitioner submits that there are 5 accused in this case and that when the quantity seized is divided among them, it falls below the commercial quantity and, hence, it cannot be considered as a case involving commercial quantity. In support of his submission, he relies on the orders of this Court, dated 08.03.2017, passed in Criminal Petition Nos.1501 and 1508 of 2017 and Criminal Petition No.12155 of 2015; from which, it can be understood that this Court took a view that when the quantity of contraband is seized, it has to be equally divided among the people, who were found to be in possession of such quantity and, if, on such division, the quantity falls lesser than the commercial quantity, Section 37 of the NDPS Act will not be a hurdle for grant of bail.

-11/11/2018

The ratio seems to be rational, since, all the accused dealing with commercial quantity would not be benefited by the proceeds of the whole quantity, but, would be benefited only by the proceeds of their share of contraband, which probably would be equal.

6. Learned Public Prosecutor does not refute those facts.

7. Hence, considering the above, and the fact that the petitioner is languishing in jail since 08.06.2017, this Court opines that this is a fit case for grant of bail to the petitioner/accused No.1. Accordingly, the Criminal Petition is allowed and the petitioner/accused No.1 is directed to be enlarged on bail on his executing a personal bond for a sum of Rs.20,000/- (Rupees twenty thousand only) with two sureties for a like sum each to the satisfaction of the IV Additional Chief Metropolitan Magistrate, Vijayawada. Further, the petitioner/accused No.1 is directed to appear before the Station House Officer, Patamata Police Station, Vijayawada city, twice in a week i.e., on every Monday and Wednesday in between 10:00 A.M. and 05:00 P.M. till filing of the charge sheet.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

//TRUE COPY//

Sd/- T.NAGESH BABU
ASSISTANT REGISTRAR

for ASSISTANT REGISTRAR

To

- 1.The Metropolitan Sessions Judge-cum-Special Judge for Trial of N.C.PS. Act Cases, at Vijayawada, Krishna District.
- 2.The IV Additional Chief Metropolitan Magistrate, Vijayawada, Krishna District.
- 3.The Station House Officer, Patamata Police Station, Vijayawada City, Krishna District.
- 4.The Superintendent, District Jail, Vijayawada, Krishna District.
- 5.Two CCs to the Public Prosecutor(AP), High Court at Hyd.(OUT)
- 6.One CC to Sri V. Roopesh Kumar Reddy, Advocates(OPUC)
- 7.One spare copy.

TKK

HIGH COURT

TR.J

DT.07-03-2018.

BAIL ORDER

CRL.P.No. 2000 of 2018



RELEASE THE PETITIONER
ON BAIL.

A handwritten signature in black ink, consisting of a stylized 'S' followed by a long horizontal stroke.