

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
MONDAY, THE TWELFTH DAY OF MARCH, TWO THOUSAND AND EIGHTEEN
: PRESENT :

THE HONOURABLE SMT JUSTICE T. RAJANI

CRLP .No. 2665 of 2018

Between:-
Makireddi Sai, S/o. Govindu,

..... Petitioner/Accused No.2,

AND

The State of A.P., Rep. by its Public Prosecutor,
High Court 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 grant bail in favour of the Petitioner/Accused No.2 in Crime No. 67 registered by SHO, Eleswaram Police Station, Rajamahendravaram, East Godavari District.

The petition coming on for hearing, upon perusing the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri Ch. Dhanamjaya, 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. 2665 OF 2018

ORDER:

This petition is filed, under Sections 437 and 439 of the Code of Criminal Procedure, 1973, seeking to enlarge the petitioner, who is accused No. 2, on bail in crime No. 67 of 2017 of Eleswaram Police Station, East Godavari District, registered for the offence punishable under Section 8 (c) read with Section 20 (b) (ii) (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the Act').

2. Heard learned counsel for the petitioner and learned Public Prosecutor (A.P.).

3. As per the case of the prosecution, the petitioner, along with accused Nos. 1 and 3 to 7, was found to be in possession of 100 kilograms of Ganja. Section 37 of the Act does not permit the Court to grant bail to the accused, where the contraband involved is beyond the commercial quantity.

4. Learned counsel for the petitioner submits that there are seven accused in this case and that when the quantity 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 Crl.P.Nos. 1501 and 1508 of 2017 and Crl.P.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 divided among the persons, who are 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 Act will not be a hurdle for grant of bail. He also submits that accused No. 3 in this case was granted bail by considering the same ratio by virtue of order dated 22-02-2018 in Criminal Petition No. 262 of 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.

5. Hence, going by the said ratio, which is rational, the petitioner-accused No. 2 is directed to be enlarged on bail on condition of 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 learned Judicial I Class Magistrate, Prathipadu, East Godavari District. The petitioner is directed to appear before the Station House Officer, Eleswaram Police Station, East Godavari District, twice in a week i.e. on every Monday and Thursday between 9 a.m. and 12 noon till filing charge sheet.

6. The criminal petition is accordingly allowed. Pending miscellaneous petitions if any shall stand closed in consequence.

//TRUE COPY//

Sd/- B.SATYAVATHI
ASSISTANT REGISTRAR

for ASSISTANT REGISTRAR

To

- 1.The I Additional District and Sessions Judge, East Godavari District
At Rajamahendravaram.
- 2.The Judicial First Class Magistrate, Prathipadu, East Godavari District.
- 3.The Station House Officer, Eleswaram Police Station, East Godavari District.
- 4.The Superintendent, Central Prison, Rajamahendravaram, East Godavari District.
- 5.Two CCs to the Public Prosecutor(AP), High Court at Hyd.(OUT)
- 6.One CC to Sri Ch. Dhananjaya, Advocates(OPUC)
- 7.One spare copy.

TKK

HIGH COURT

TR.J

DT.12-03-2018.

BAIL ORDER

CRL.P.No. 2665 of 2018

RELEASE THE PETITIONER
ON BAIL.



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