

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.2886 OF 2018

ORDER:

This petition is filed under Sections 437 and 439 of Code of Criminal Procedure (for short "Cr.P.C.") to enlarge the petitioner/accused No.5 on bail in S.C.No.160 of 2017 pending for trial before the I Additional District and Sessions Judge, East Godavari at Rajamahendravaram in connection with Crime No.25 of 2017 on the file of Chintoor Police Station, Visakhapatnam District registered for the offence punishable under Section 20 (b) (ii) (c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "N.D.P.S.Act").

It is the case of the prosecution that on 07.03.2017 on receipt of reliable information about illegal transportation of Ganja, the raid party rushed to Ratnampuram junction, Chintoor village and Mandal. During vehicle check, they found a lorry, but the persons sitting in the lorry, on seeing the police, tried to escape, but the police apprehended them and on search they found 300 kgs of Ganja in the said lorry, the same was seized under the cover of mediators report and lifted the samples in the presence of mediators and obtained their signatures on the slips affixed to the contraband, registered a case against the petitioner and others.

It is the contention of the petitioner that he was engaged by accused No.4 for transporting 15 bags of Ganja from forest to Ghat road enabling the other accused to transport same.

Even if this fact is accepted, transportation of Ganja is also offence punishable under Section 20 (b) (ii) (c) of NDPS Act.

But there is interdict on the power of the Court to grant bail under Section 37 of NDPS Act, which does not permit this Court to grant bail as a matter of routine, where commercial quantity is involved and unless the Court satisfied that the petitioner did commit no offence on reasonable belief and that the petitioner will not commit similar offence while on bail, the Court cannot grant bail to the petitioner. Therefore, recording satisfaction about the said two conditions is necessary for grant of bail.

In the present case, the petitioner was engaged by accused No.4 for transportation of 300 Kgs of Ganja from forest to Ghat road, this itself is suffice to draw a presumption under Section 54 of NDPS Act that he is in conscious possession while transporting Ganja. Therefore, it is difficult to release the petitioner on bail. However, the special circumstance shown by the petitioner is that after he sent to prison as under trial prisoner, his wife died on 28.03.2017 and his four children are begging on the road and produced death certificate of his wife and news item published in the paper to substantiate the contention of the petitioner that his children became destitute and nobody is there to look after them and they are begging on roads.

In view of the special circumstances referred above, the learned counsel for the petitioner requested this Court to grant short period bail to enable the petitioner to make necessary arrangements for the children.

In view of the special circumstances referred above, the petitioner/accused No.5 is directed to be released on bail for a period of one month on his executing a personal bond for

Rs.20,000/- (Rupees Twenty thousand only) with two sureties for a like sum each to the satisfaction of Judicial First Class Magistrate, Rampachodavaram. After completion of one month from the date of his release, the petitioner shall report before the Superintendent, Central Jail, Rajamahendravaram.

With the above direction, the petition is disposed of.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

21.03.2018
Ksp

