

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRL.P.No.3052 OF 2018

ORDER:

This criminal petition is filed under Section 438 of Cr.P.C to enlarge the petitioners/A3 and A4 on bail in the event of their arrest in connection with Crime No.138 of 2017 of Excise Serilingampally Police Station, registered for the offences punishable under Sections 8(c) read with 20(b)(ii) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act').

It is the case of the petitioners that the petitioners along with other accused were found transporting ganja at about 09.45 am on 30.08.2017 near WIPRO X Roads towards Nanakramguda, Serilingampally Mandal and seized 2.250 kgs of dry ganja from illegal possession of A1, under a cover of panchanama. During course of investigation, A1 confessed that he purchased the seized ganja from A2 and further confessed that A2 in turn used to sell the same to A3 and A4. Therefore, the basis for registering crime against the petitoenrs/A3 and A4 is on confession made by A1.

It is the contention of learned counsel for the petitioners that A1 was already enlarged on pre-arrest bail in the same crime by this Court in Crl.P.No.100 of 2018 vide order dated 19.01.2018 and requested the Court to grant pre-arrest bail to these petitioners also.

Learned Additional Public Prosecutor opposed the petition. However, the material on record shows that A1 was found in possession of 2.250 kgs of dry ganja and on interrogation, he made a confession that he purchased the same from A2, who in turn used to sell the same to A3 and A4.

The basis for registering the crime is confessional statement recorded under Section 53-A of the NDPS Act and that too the quantity involved is less than commercial quantity. Granting of pre-arrest bail is not a matter of routine and it is a matter of exception unless the petitioner has shown the exceptional circumstances and that the Court cannot grant pre-arrest bail on the ground that A1 was granted bail. The Court below did not record any reason to exercise of power under Section 438 Cr.P.C., which is an extra ordinary power more particularly, special circumstances, which warrants the Court to grant pre-arrest bail. Therefore, it is difficult to grant pre-arrest bail based on the order passed in CrI.M.P.No.206 of 2018 and I find no ground to grant pre-arrest bail.

Accordingly, the criminal petition is dismissed.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

19.03.2018
kvrn

M.SATYANARAYANA MURTHY,J

