

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.3332 OF 2018

ORDER:

This criminal petition is filed by the petitioner/A-3 under Section 438 Cr.P.C to direct the Station House Officer, V. Madugula Excise Station, Visakhapatnam District, apprehending his arrest in connection with Crime No.51 of 2017 for the offences punishable under Section 20(b)(i) r/w 8(C) of NDPS Act, 1985.

The case of prosecution is that, on 30.07.2017, the petitioner herein/A-3 was piloting the truck which was transporting 526 kgs of ganja. The police have intercepted the vehicles, found the contraband in the truck, apprehended A-1 & A-2 at the spot and seized the contraband in the presence of mediators under the cover of mediators report, after following necessary procedure. But, this petitioner, who was allegedly piloting the truck absconded from the scene of offence. Thereafter, A-1 & A-2 were examined under Section 67 of NDPS Act and they disclosed that the present petitioner was piloting the truck in which contraband was being transported. Therefore, the statement recorded under Section 67 of NDPS Act can be taken into consideration, in view of Section 53-A of NDPS Act. That apart, unless this Court comes to conclusion that based on reasonable belief that the petitioner has not committed any offence and that, he will not commit similar offence in the near future, as required under Section 37(1)(b) of NDPS Act, this Court can grant regular bail or pre-arrest bail. Therefore, the material on record *prima facie* shows that the petitioner was

piloting the truck in which 526 kgs of ganja was being transported and therefore, I find no ground to grant pre-arrest bail by exercising power under Section 438 Cr.P.C.

Yet, learned counsel for the petitioner Sri A.S.C. Bose contended that, the petitioner is allegedly involved in this crime for the first time and there is no previous history of commission of such offences. But, this is not a ground to grant pre-arrest bail, since the petitioner was absconded since 30.07.2017 to avoid trial. When the petitioner is successful in avoiding his arrest for more than approximately 10 months, he does not deserve any sympathetic consideration to grant pre-arrest bail. Therefore, I am not inclined to grant pre-arrest to this petitioner and the petition is liable to be dismissed.

In the result, the criminal petition is dismissed.

Consequently, miscellaneous applications pending if any, shall also stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:27.03.2018

SP