

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.4101 of 2018

ORDER

This petition under Sections 437 and 439 of Cr.P.C., is filed by the petitioner/sole accused to enlarge him on bail in S.C.No.47 of 2018 on the file of I Additional District and Sessions Judge-cum-Metropolitan Sessions Judge, Cyberabad at LB Nagar, Ranga Reddy District, registered for the offences punishable under Section 22(c) of NDPS Act, 1985 and under Section 34(1)(ii) of A.P.Excise Act, 1968 (Telanga Adaptation) Order, 2015.

2. The case of the prosecution, in brief, is that on 09.02.2018 at about 4.00 PM., the police went to the house of accused near Grampanchayat and Government School, Mirjaguda Village, found 250 grams of powder from the possession of accused and they seized the same under the cover of panchanama. On the strength of the panchanama, a case in Cr.No.9 of 2018 was registered against the petitioner for the aforesaid offences.

3. The contention of the petitioner is that only Diazepam was seized from his possession as per the contents of the panchanama dated 09.02.2018 recorded by the police and not Alprazolam.

4. The learned Public Prosecutor for the State of Telangana contended that the powder seized from the possession of accused is Alprazolam and not Diazepam as per the Laboratory Analysis Report of Prohibition and Excise Department and that too, 100 grams of Alprazolam is a commercial quantity and that unless the Court records the satisfaction that there is no reasonable ground to conclude that the petitioner is not guilty of the offences and that he

would not commit any similar offences while on bail in view of the bar under Section 37(1)(b) of NDPS Act, the Court cannot grant bail and prayed for dismissal of the petition.

5. As seen from the material on record, including the panchanama dated 09.02.2018, the powder of 250 grams seized from the possession of accused is described as diazepam. But on chemical analysis, the powder seized from the possession of accused under mediator's report is Alprazolam and not Diazepam and that 100 grams of Alprazolam is a commercial quantity. When a commercial quantity of contraband is seized from the possession of the accused and unless the Court records a finding that there is no reasonable ground to conclude that the petitioner is not guilty of such offence and that the petitioner would not commit similar offences while on bail, the Court cannot grant bail to him.

6. In the present facts of the case, there is direct material on record to show that the petitioner was found in possession of 250 grams of Alprazolam, which is commercial quantity, and there is nothing to record satisfaction as required under Section 37(1)(b) of NDPS Act in view of the material collected during investigation by the investigating agency. Therefore, I find that it is not a fit case to enlarge the petitioner on bail in view of the bar under Section 37(1)(b) of NDPS Act.

7. In the result, the Criminal Petition is dismissed.

M. SATYANARAYANA MURTHY, J

16th April, 2018

sj