

HON' BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

CRIMINAL PETITION No.5154 of 2018

ORDER:

The petitioner is A1 among three accused. As per the very prosecution case covered by Panchanama dated 17.12.2017 at about 22.00 hours at Venkatapuram Junction, Atchutapuram Mandal, Visakhapatnam District and continued later at Gateway CFS, Sheelanagar, Visakhapatnam in the presence of mediators Sri J.Tarun Kumar and Sri S.Sridhar that on that day at about 18.00 hours these witnesses were approached by the officers of the Directorate of Revenue Intelligence (for short, 'the D.R.I.'), Visakhapatnam Regional Unit, to stand as witnesses. The officers informed that they have specific intelligence to the effect that Cannabis, also known as ganja and narcotic drug, is being illicitly transported in a Tata truck bearing registration No.HR 69A 7532 and another Tata Indigo Car bearing registration No.AP 31 TV 6672 is piloting it and that the said vehicles are coming from the direction of Rambilli and moving towards the Highway near Lankelapalem. The officers of D.R.I. informed that they intend to intercept the Tata Indigo Car and Tata Truck supra and examine the said vehicles. While they were waiting, at about 22.00 hours the officers of D.R.I. sighted a Tata Indigo car supra and intercepted it and there is a driver by name Venkata Ramana Hantal @Moir, who is the petitioner herein-A1 and another passenger by name Chodipilli Ganga Rao-A2 and

they were examined as to whether they were piloting any vehicle carrying ganja to which they answered in negative. However, it was noticed that they were anxious and were in a state of panic. In the meantime, a Tata truck bearing registration No.HR 69A 7532 was noticed to be coming in the same direction confirming the specific intelligence information and they intercepted said vehicle and the officers introduced themselves to the driver of vehicle and ascertained his name as Sri Jaswinder Singh @Gopi-A3 and questioned as to whether any cannabis known as ganja is being transported in the vehicle, for which he answered in negative. It was noticed that he was being nervous and in a state of panic and for the repeated questions Sri Jaswinder Singh admitted that there is ganja in the truck along with some other chemicals packed in drums and HDPE bags. The officers of D.R.I. then asked A1 and A2 supra as to whether they knew that there was ganja in the truck, for which they were piloting, and they have answered even in negative again. Therefrom the truck driver was asked to open the Tarpaulin and on opening the same, a few officers of D.R.I. have boarded the vehicle and noticed that the vehicle was loaded with several HDPE bags of different sizes and some of them are new and affixed with labels and some of them are larger in size appears to be used ones without any labels. Then the officers opened a few HDPE bags without labels and found that they contain small packets wrapped with brown colour

adhesive tape. On cutting open a few of those packets, a green leafy material emanating a strong distinct odour similar to ganja was noticed, and again on questioning the persons traveling in the car by name Sri Chodipilli Ganga Rao and Sri Venkata Ramana Hantal, they admitted that they were indeed piloting the truck carrying ganja and they had prior knowledge of the presence of ganja in the vehicle. From that as the place was not conducive to conduct further proceedings and there were no proper facilities for unloading the cargo and its examination and also for the reason that the place is not secured, the officers of D.R.I. informed Sri Chodipilli Ganga Rao, Sri Venkata Ramana Hantal and Sri Jaswinder Singh, A1 to A3 that they intend to take the vehicle with them to the Gateway CFS, Near Sheelanagar, Visakhapatnam to conduct further proceedings there and proceeded along with Panchas. Since it was around 1.30 hours in the early hours of 18.12.2017 and for no manpower was available at that point of time, all are waited in the premises of Gateway CFS by parking the vehicles inside the Gateway CFS till next morning. On 18.12.2017 at around 9.30 A.M., the officers of D.R.I. have started further proceedings at the Gateway CFS and unloaded all the contents of truck and found 160 plastic drums (referred to as Carboys in the invoice) contain some liquid substance with company labels and 280 HDPE bags, loaded at the backside of the vehicle and over the plastic drums, appeared to contain some powdery substance with company labels,

detailing the contents therein, and another 27 HDPE bags without any labels as referred supra found concealed among 280 HDPE bags and said 27 HDPE bags contain small packets, totally found 804 kgs. It is further mentioned as per the documents, nothing was mentioned in the invoice No.SNV-1718-3995 dated 11.12.2017 regarding the other non-labeled 27 HDPE bags that were found in the truck, contain small packets of ganja. It is further mentioned that on being questioned about the nature of material, the petitioner-A1 and Sri Chodipilli Ganga Rao-A2 also admitted the material indeed as ganja, whereas Sri Jaswinder Singh-A3 admitted about the prior knowledge of 27 bags loaded in the truck containing ganja and he has undertaken to transport said ganja in the truck by concealing the same with other material to Dehradun, Uttarakhand on the directions of the owner of vehicle as communicated through one Raju over the mobile phone.

2. The contention of petitioner-A1 that from this Panchanama even there is nothing to say that they are in conscious possession of even constructive any contrabond much less any collateral statement as contemplated by Sections 54 and 35 of the Narcotic Drugs and Psychotropic Substances Act, 1985, amended Act 9 of 2001 (for short 'the Act'). It is also the contention that A1 and A2 even consciously stated in the negative of they are not piloting and they have no knowledge about any truck with ganja coming under their piloting. Though

initially it was the version as per the Panchanama referred supra of the contents, from their further disclosure upon saying they got conscious prior knowledge about the ganja.

3. Having regard to the above, that too when there is commercial quantity, there are no grounds to grant bail from the limitations under Section 37 of the Act and for nothing to say that the petitioner-A1 cannot ultimately be found guilty of any offence and he will not commit any offence while on bail.

In the result, this Criminal Petition is dismissed without prejudice to the available context. Consequently, miscellaneous petitions, if any shall stand closed.

05.06.2018
MVA

Dr. B.SIVA SANKARA RAO, J

