

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

+ CRIMINAL PETITION No.5990 of 2018

% Dated 20.06.2018

Polavarapu Govind

....Petitioner

VERSUS

\$ The Senior Intelligence Officer, Directorate of Revenue
Intelligence, Regional Unit, Vijayawada

... Respondent

! Counsel for Petitioner : Sri G. Venkata Reddy

^ Counsel for Respondent : Special Public Prosecutor

< GIST:

> HEAD NOTE:

? CITATIONS:



**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

CRIMINAL PETITION No.5990 of 2018

Between :

Polavarapu Govind

....Petitioner

VERSUS

The Senior Intelligence Officer, Directorate of Revenue Intelligence,
Regional Unit, Vijayawada

... Respondent

DATE OF JUDGMENT PRONOUNCED: 20.06.2018

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

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals? Yes/No
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO**CRIMINAL PETITION No.5990 of 2018****ORDER :**

This criminal petition filed under Sections 437 and 439 Cr.P.C. by the petitioner/A.5 in F.No.DRI/HZU/VJRU/48/ENQ-01(INT-NIL)/2018 of the Directorate of Revenue Intelligence, Regional Unit, Vijayawada, for the offences punishable under Sections 20, 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act').

2. Heard learned counsel for the petitioner and learned Public Prosecutor, representing the State, and perused the material on record.

3. The contraband involved is 594.62 kgs. of ganja. The contentions in the bail application are that he is innocent, there is no contraband recovered from his possession, there are non-observance of the mandatory provisions of the NDPS Act, the entire investigation completed and charge sheet filed and the petitioner entitled to the concession of bail.

4. The other submission from the bail application para 4 is that the marriage of the daughter of the petitioner/A.5, by name, Durga Devi @ Indu is scheduled to be held on 21.06.2018 with one Nagendra and the petitioner, being the father, to attend the marriage from the arrangements are making by his wife and other family members and he filed some colour Xerox photos saying that of the engagement

ceremony and the printed wedding card. He is in judicial custody since 07.01.2018. He went unsuccessful earlier in moving the bail before the Special Judge including in Crl.M.P.No.100 of 2018, dated 20.02.2018, saying there is a prima facie accusation and there is nothing to hold the twin limitations contemplated by Sections 37(1) of the NDPS Act have no application for what Section 37(2), speaks those are in addition and not in exclusion of the guidelines for bail provided by the Code of Criminal Procedure. Leave about the findings required to be given by the Court of there is no likelihood of conviction of the accused from analysis of the material and there is no likelihood of committing another offence, which are cumulative and not even consecutive. It is a contraband not seized from the person of the accused to say any mandatory provision of Section 50 of the NDPS Act not followed. Even taken the officer who conducted the raid and seized the contraband is authorized officer and not an empowered officer by the authorized officer, thereby the compliance of Sections 41 and 42 of the NDPS Act no way required, leave about if at all required and mandatory, it is not the only thing to come to a conclusion of not likely to be convicted in consideration of the concession of bail without showing prejudice caused there from, which is a matter for appreciation during trial, but for that there are no tenable grounds to say that he is not likely to be convicted as a pre-requisite to the seeking of the bail from the limitations under Section 37 of the NDPS Act. Coming to the factum of there is a marriage

ceremony fixed to be performed on 21.06.2018 concerned, the aadhar card speaks the proposed bridegroom-Durga Devi (Indu) was shown born in 2003, she is a minor, there is a prohibition of child marriage, for that the Court cannot give any concession of granting bail. Further, from the learned Public Prosecutor opposed the bail also on merits besides on the pretended purpose of attending for the performance of the marriage of the daughter of the petitioner/A.5; that it is one of the modus operandi contemplated by Sections 13 and 14 of the Evidence Act adopting by the accused and earlier some of the accused on that concession with escort granted, by this Court another bench, the concession of interim bail for one week with a pretence of marriage of the family members or relatives and they beat the escort party and fled away and with that operandi, the petitioner cannot be given the concession of bail even for the pretence of attending the marriage of the minor daughter and from their enquiry, it revealed that there is a proposal culled out to perform a marriage as a pretence for purpose of getting the concession of bail and not really a marriage ceremony proposed to be performed and for that to attend, but for to give such a colour. Taking consideration of all these facts, as the Court cannot be used as a leber to the abuse, the petition for bail on merits and even for any interim concession of bail for the about performance not genuine can be dismissed.

5. Accordingly, the criminal petition is dismissed.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

20th June 2018.

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L.R.Copy to be marked – Yes.

