

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.6102 of 2018

ORDER:

This Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973, is filed by the petitioner/A.3 for grant of anticipatory bail in Crime No.341/2014-15 of Prohibition and Excise Station, Tandur, Ranga Reddy District, registered for the offences punishable under Sections 8(c) r/w 22(c) of The Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act', for brevity).

2. Heard the learned counsel for the petitioner/A.3, learned Additional Public Prosecutor representing the respondent-State and perused the record.

3. The learned counsel for the petitioner/A.3 would submit that the petitioner/A.3 is an innocent person and was falsely implicated in this case. He is neither responsible nor connected with the allegations levelled against him in the First Information Report and ultimately prayed to grant anticipatory bail to the petitioner/A.3.

4. On the other hand, the learned Additional Public Prosecutor, placing reliance on the decision of the Apex Court in Satpal Singh Vs. The State Of Punjab¹, submitted that in view of the stringent provisions of Section 37 of NDPS Act, the petitioner/A.3 is not entitled for anticipatory bail and ultimately prayed to dismiss the Criminal Petition.

¹ CrI.A.Nos.462 & 463 of 2018 dated 27.03.2018

5. As per the material placed on record, on 12.08.2014, on receipt of credible information regarding illegal possession and transportation of Alprazolam near bus stand, Laxminarayanur 'X' Road, Yalal Mandal, Ranga Reddy District, the Prohibition and Excise officials proceeded there and apprehended the accused No.1 and seized 7 kilograms of Alprazolam from his possession under a cover of panchanama. Investigation revealed that the said psychotropic substance was supplied to A.1 by A.2 & the petitioner/A.3, with a direction to deliver the same to A.4.

6. In Satpal Singh's case cited supra, the Apex Court held that the quantity is reportedly commercial; in the circumstances of the case, the High Court could not have and should not have passed the order under Sections 438 or 439 Cr.P.C. without reference to Section 37 of the NDPS Act and without entering a finding on the required level of satisfaction in the case the Court was otherwise inclined to grant the bail. It is also well settled principle of law that provisions of Section 37 of NDPS Act are very stringent and bails are not granted easily. Section 37 of NDPS Act may not bar the grant of bail but the limitations imposed are so stringent that Courts have to be very cautious while granting bail. In the instant case, there is a specific allegation that 7 kilograms of Alprazolam was handed over to A.1 by the petitioner/A.3 and A.2, to deliver the same to A.4. The matter requires thorough investigation. In view of the allegations levelled against the petitioner/A.3, it cannot be held that there are no reasonable grounds for believing that the petitioner/A.3 is

not guilty of the offence alleged and that he would not commit any offence while on bail. Therefore, the petitioner/A.3 is not entitled for anticipatory bail under Section 438 of Cr.P.C.

7. Accordingly, the Criminal Petition dismissed.

Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

10th July, 2018
Bvv

