

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.6151 of 2018

ORDER:

The petitioner is accused No.8 of crime No.185 of 2016 of Paderu Police Station, Visakhapatnam, registered for the offences punishable under Section 20(b)(ii)(c) r/w Section 8(c) of Narcotic Drugs and Psychotropic Substances Act (for short 'NDPS Act'). The said crime after investigation from the final report filed by the police taken cognizance as NSE.No.582 of 2017 pending on the file of learned Metropolitan Sessions Judge, Visakhapatnam.

The prosecution case is that on information of illegal transportation of ganja in Paderu area on 19.10.2016, the Sub Inspector of Police, Paderu, while conducting routine watch it was at Guttulapudi Village, found a motorbike followed by one tanker coming from Paderu at about 08.00 PM and on seeing police the bike rider and driver of the tanker stopped and tried to escape and they were caught hold and from the apprehension of 3 persons, for the bike rider escaped, they made a disclosure statement of the contraband which is ganja in the tanker. It is the averment that the petitioner/A.8 who is the Inspector of Prohibition and Excise is helping accused persons in transporting ganja.

The contention of the petitioner in the bail application that he is innocent and falsely implicated though his name is

not there in the FIR and even A.1 to A.3 disclosed in their did not whisper about the petitioner/A8, but for based on the disclosure statement of A.4 and by the date of alleged offence on 19.10.2016 the petitioner was not even discharging the duties of Inspector of Police in the Paderu Police Station and he was attached to a mobile party from 24.06.2016 and he rendered 11 years of service in Prohibition and Excise Department, he sought bail thereby. He went unsuccessful before having been surrendered on 22.02.2018 in Crl.M.P.No.1051 of 2018 vide dismissal order dated 07.05.2018. According to his version A.1 to A.3 were released on regular bail, A.4 to A.7 obtained anticipatory bail and the petitioner is in better footing to them when compared.

The contraband seized is 1360 kgs in the case on hand. The learned Public Prosecutor opposed the bail application saying it is not the mere disclosure of the complicity of the petitioner/A8 by co-accused from investigation but also from the call data information collected correlates and prima facie shows the complicity of the petitioner/A8 being the public officer to the crime in its perpetration instead of preventing. It is stated that he is the modus operandi in facilitating transportation of ganja by abusing his official position.

The charge sheet filed by the police in this case from the investigation shows even as per the confession statements covered by disclosure statement of A.1 to A.3 the petitioner

was worked as Inspector of Police, P&E, in mobile party as incharge of PS Paderu assisted and facilitated the assailants in transportation of ganja in their vehicles and the call data disclosed his links with other accused. It is from that substantial material he is shown as co-accused and he is in abscondence originally and later surrendered and the learned Sessions Judge also dismissed his application for bail.

The original charge sheet dated 12.06.2017 after petitioner's apprehension since in abscondence supplemental charge sheet being filed.

In fact from perusal of the CD with reference to the charge sheet it also shows he is accused in another crime No.126 of 2017 under Section 8(c) r/w Section 20(b) of NDPS Act dated 24.02.2017 his name arrayed in the FIR as A.6 from the disclosure statement of persons apprehended while in possession of 64 ganja packets of total 2686.900 kgs while transporting in 2 lorries with the privy of the petitioner of the disclosure statements in the presence of Executive Magistrate and they made the disclosure saying the said transport of ganja in the 2 lorries to Tirupati from Visakhapatnam forest area is with the assistance of the Inspector-Srinivas, who is the petitioner herein as A.6 therein.

Having regard to the above, irrespective of the bail granted to A.1 to A.3 and anticipatory bail granted to A.4 to A.7, the petitioner does not deserve the concession of the bail.

Taking into consideration of these facts, this Criminal Petition is dismissed, however it is not a bar for future application from any changed circumstances as to progress in supplemental charge sheet also.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 11.07.2018
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