

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7322 of 2018

ORDER :

The petitioner is A.1 among more than two accused of Crime No.DRI/HZU/VJRU/48/ENQ-7/2017, dated 14.11.2017, of the Directorate of Revenue Intelligence, Vijayawada. It was registered for the offences punishable under Section 8(c) read with 20(b)(ii) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') for involvement of the commercial quantity of Ganja of 133 pockets, total 278.90 grams.

2. Heard learned counsel for the petitioner and learned Special Public Prosecutor for the respondent-Investigating Agency, and perused the bail application averments, panchanama, disclosure statement of A.1 from the notice issued under Section 67 of the NDPS Act, earlier dismissal of the bail application passed by the learned Metropolitan Sessions Judge, Vijayawada, in CrI.M.P.No.1051 of 2018, dated 08.06.2018, and the counter filed in opposing the bail application.

3. A perusal of the sum and substance of the panchanama shows the Revenue Intelligence officials got a reliable information about a secret and clandestine transport of the contraband by keeping in a closed vehicle i.e., Oil Tanker bearing No.AP 16 TX 1998 and from that information received by on or before 10.30 a.m., they secured two mediators, by name, M. Ashok Kumar and Ch. Bala Akhil of

Vijayawada, and then proceeded to the spot, which is Eluru road, near Benz Circle, Vijayawada, to intercept the vehicle coming from Eluru side towards Chennai side and on noticing the vehicle, which is at about 11.45 a.m., when intercepted, the driver by taking the keys of the vehicle and some papers including registration papers of the vehicle, fled away and out of their catch. The other person travelling in the Tanker, who is the petitioner herein, by name Durgi Naidu Kantamreddi, was when apprehended, he made a disclosure and from the disclosure in the presence of the mediators and from search of the Tanker found the contraband inside as referred supra and seized the vehicle with the contraband and collected samples and brought to their office. After brought to their office, before submitting to judicial custody, on that day at about 10.30 p.m. or so, statement of him in detail under Section 67 of the NDPS Act was recorded, where he made a detailed disclosure of certain facts confirming to the complicity and the seizure of the contraband with his conscious possession and knowledge and that attracts even not only Section 54 of the NDPS Act, but also Section 35 of the NDPS Act of conscious and guilty state of mind to draw the presumption, which is mandatory. Leave about the admissibility or otherwise of the said statement under Section 67 of the NDPS Act, which is statutorily admissible as per the settled law including the co-accused mentioned therein with reference to the Section 30 of the Evidence Act for ultimately a matter for appreciation can be a basis or what is the other corroborative material

and any prejudice therein caused to the maker of the statement along others, and once such is the case, several contentions even attacking the panchanama and same is not a continuation of the proceedings from the time gap, if any, after arrival of panchas and interception of the vehicle, which are all matters for trial needless to repeat; once there is a disclosure and a seizure, leave about taken as search of the vehicle in question, from which contraband seized and samples collected and later submitted to the Court, there is a prima facie accusation of the commercial quantity to attract the bar of the twin requirements for grant of bail under Section 37 of the NDPS Act, which could not be shown how no way applicable.

4. Having regard to the above, the petitioner is not entitled to concession of bail. Accordingly, the criminal petition is dismissed. Need less to say, the learned Sessions Judge shall make every endeavour for early disposal, preferably within five months from the date of receipt of a copy of this order, as per the directions of the Apex Court in **Thana Singh v. Central Bureau of Narcotics**¹.

Miscellaneous petitions pending, if any, shall stand closed.

25th July 2018.

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Dr. B. SIVA SANKARA RAO, J

¹ 2013 (2) DCR CrI.280 (SC)