

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.11359 OF 2018

ORDER:

This Criminal Petition, under Section 439 of the Code of Criminal Procedure, 1973, is filed by the petitioners/A.2 and A.3, for grant of bail in S.C.No.9 of 2018 on the file of the Special Sessions Judge for Trial of Cases under NDPS Act-cum-I Additional Sessions Judge, Khammam, Khammam District.

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

3. The learned counsel for the petitioners/A.2 and A.3 would contend that the petitioners are innocent persons and they are falsely implicated in this case. A.4 had loaded the baggages in the lorry bearing registration No.RJ 19GB-6109. These petitioners were not aware of the contents of bags. A.4 was granted bail *vide* order dated 12.06.2018 in CrI.M.P.No.599 of 2018 in Crime No.139 of 2018, Khammam Rural Police Station by the Specially designated Court, i.e., I Additional Sessions Judge, Khammam and ultimately, prayed to allow the petition.

4. The learned Additional Public Prosecutor opposed the grant of bail to the petitioners/A.2 and A.3 and contended that the petitioners/A.2 and A.3 were aware of the contents of the baggages. They are responsible for the transportation of ganja. The petitioners are distinctly placed and ultimately, prayed to dismiss the petition.

5. In view of the submissions made by both sides counsel, the point that arise for determination is, whether the petitioners/A.2 and A.3 can be granted bail under Section 439 Cr.P.C.?

6. As per the material placed on record, the Sub-Inspector of Police conducted search on 12.04.2018. In that process, at 20.00 hours, he stopped the lorry bearing registration No.RJ 19GB-6109, conducted search of the said lorry and found 460 kgs of ganja being transported by the petitioners/A.2 and A.3, who are cleaner and driver of the said lorry respectively. The said ganja was seized under a cover of panchanama. Thereafter, the petitioners are remanded to judicial custody. The quantity seized is of commercial quantity. A.4 was not found in the said lorry. The petitioners/A.2 and A.3 are distinctly placed. The gravity of offence is very high. There is a bar to grant bail under NDPS Act, where the commercial quantity of ganja is seized. In the circumstances, it cannot be said that the petitioners are falsely implicated in this case and they would not indulge in similar offence in future. The petition do not merit consideration.

7. In the result, the Criminal Petition is dismissed.

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

DR. SHAMEEM AKTHER, J

Date: 22.11.2018
ssp