

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.12808 of 2017

ORDER:

This Criminal Petition, under Section 439 of the Code of Criminal Procedure, 1973, is filed by the petitioner/accused No.1, for grant of bail in connection with Crime No.60 of 2017 on the file of the Chinturu Police Station, East Godavari District, registered for the offence punishable under Section 8(c) read with 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act').

2. Heard the learned counsel for the petitioner/accused No.1, learned Additional Public Prosecutor representing the respondent-State and perused the record.

3. The learned counsel for the petitioner/accused No.1 would submit that the petitioner/accused No.1 is suffering from 'HIV + ve'. He is taken from his home and falsely implicated in this case and ultimately prayed to allow the application.

4. On the other hand, the learned Additional Public Prosecutor opposed for grant of bail to the petitioner/accused No.1.

5. The material on record reveals that on 12.10.2017 when the vehicle checks were going on, on credible information, a Maruti Suzuki Car bearing registration No.AP-28-BN-7557 was stopped and searched and the petitioner/accused No.1, along with accused Nos.2 to 5, were found transporting 135 kilograms of Ganja by the said car. The said contraband was seized under a cover of Panchanama. The petitioner/accused No.1 is also the accused No.1

in Crime No.14 of 2016 on the file of the Mothugudem Police Station, East Godavari District, registered for the offence punishable under Section 8(c) read with 20(b)(ii)(c) of the NDPS Act. His bail application in CrI.P.No.12598 of 2016 was allowed by this Court by order, dated 08.09.2016, on the ground that he was suffering from 'HIV +ve' and his family members intend to provide better treatment in private hospitals. In the instant case, the quantity seized is of commercial quantity. The petitioner's earlier bail application in CrI.P.No.12598 of 2016 was considered by this Court on medical grounds. The petitioner/accused No.1 has again indulged in illegal transportation and sale of Ganja. Under these circumstances, it is not justifiable to consider the present bail application of the petitioner/accused No.1 on medical grounds, as there is possibility of his repeating the commission of similar offences. Further, there is stringent punishment for illegal possession and transportation of commercial quantity of Ganja. It cannot be held that the petitioner/accused No.1 is falsely implicated in this case. Viewed from any angle, it is not a fit case to grant bail to the petitioner/accused No.1 under Section 439 of Cr.P.C.

6. Hence, the Criminal Petition is dismissed.

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

Dr. SHAMEEM AKTHER, J

02nd January, 2018
Bvv