

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.13341 OF 2018

ORDER:

This Criminal Petition, under Section 439 of the Code of Criminal Procedure, 1973, is filed by the petitioner/A.1, for grant of bail in Crime No.245 of 2018 of Prohibition and Excise Station, Narsipatnam, Visakhapatnam District registered for the offence punishable under Section 8(c) read with 20(b)(ii)(c) of NDPS Act, 1985.

2. Heard the learned counsel for the petitioner/A.1 and the learned Additional Public Prosecutor representing the respondent-State and perused the record.

3. Learned counsel for the petitioner/A.1 would contend that the petitioner has nothing to do with the alleged seizure of ganja on 29.09.2018 from an auto bearing No.AP 28DF 4936. It is also contended that the provisions under Sections 42 and 50 of the NDPS Act, have not been complied with. It is further contended that the mother of the petitioner/A.1 is suffering from ill-health and ultimately, prayed to allow the petition.

4. Learned Additional Public Prosecutor opposed the grant of bail to the petitioner/A.1 and contended that the petitioner/A.1 is the main person, who purchased 270 kgs of dry ganja and found transporting the same by auto bearing No.AP 28DF 4936 along with other accused in this case. The said ganja was seized on 29.09.2018 under a cover of panchanama. It is further contended that Section 42 of the NDPS Act has been complied with and ultimately, prayed to dismiss the petition.

5. Now the point for determination is, whether the petitioner/A.1 can be granted bail under Section 439 Cr.P.C.?

6. As per the material placed on record, on 29.09.2018, the petitioner/A.1 along with A.2 and A.3 was found transporting ganja by auto bearing No.AP28 DF 4936 and the same was seized under a cover of panchanama. Further, there is also mention in the record with regard to the suspicion and search made by the Prohibition and Excise Inspector, ESTF, Anakapalli. The record reflects the substantial compliance of Section 42 of the NDPS Act. There is no personal search of the petitioner/A.1. Therefore, it cannot be said that Section 50 of the NDPS Act is required to be complied with. The dry ganja seized from the possession of the petitioner/A.1 and other accused is 270 kgs. It is a commercial quantity. The illness of his mother cannot be a ground to grant bail to the petitioner/A.1. Punishment for the alleged offence is stringent. At this juncture, it cannot be held that the petitioner is falsely implicated in the case and in the event of his release, he would not indulge in similar offences in future. The petition is devoid of merit and is liable to be dismissed.

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

DR. SHAMEEM AKTHER, J

Date: 20.12.2018
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