

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.12551 OF 2017

ORDER:

This petition is filed under Section 439 Cr.P.C. to grant bail to the petitioner-A3 for the offence alleged under Sections 25 and 20 (b) (ii) (c) r/w 8 (c) of N.D.P.S. Act, 1985.

2. Heard learned counsel for the petitioner-A3, learned Additional Public Prosecutor representing the State and perused the record.

3. Learned counsel for the petitioner-A3 would submit that the petitioner-A3 is a Kirana Merchant and he is selling Potasium through the Kirana shop. The police falsely implicated the petitioner in this case and he has nothing to do with the alleged seizure of ganja and ultimately, prayed to allow the application.

4. On the other hand, learned Additional Public Prosecutor opposed the grant of bail to the petitioner-A3.

5. The material on record reveals that on 28.08.2017 at 06.00 hours, when the police intercepted car bearing No. TN 07 BY 1707, which was traveling towards Tuni from Anakapalli road, two persons sitting on the front seat in the car ran away and escaped from the police. Remaining two persons who were sitting in the car were caught by the police. On search, 128 Kgs of ganja consisting of 64 packets, each packet weighing 2 Kgs was found in the said car. The same was seized under a cover of panchanama in the presence of mediators. The petitioner-A3 was travelling in the car. There is confession

that the petitioner-A3 was transporting ganja along with other accused and that led to seizure of ganja in this case. There is no reason for the police to get 128 Kgs of ganja and implicate the petitioner-A3 in this case. The quantity of ganja seized is a commercial quantity. In view of the facts and circumstances, it cannot be held that the petitioner-A3 is an innocent person and falsely implicated in this case. Further, it cannot be held that the petitioner-A3 would not indulge in similar offences in the event of release on bail. Therefore, it is not a fit case to grant bail to the petitioner under Section 439 Cr.P.C.

6. Accordingly, the Criminal Petition is dismissed.

DATED: 02-01-2018
Hsd

DR.SHAMEEM AKTHER, J

