

SMT. JUSTICE T.RAJANI
CRIMINAL PETITION No.24590 OF 2017

ORDER:

This Criminal Petition is filed seeking for grant of bail to the petitioners, who are accused Nos.1 to 6, in Crime No.80 of 2017 on the file of Railway Police Station, Vikarabad, Secunderabad District.

2. The offence alleged is under Section 20(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the Act').

3. Heard the learned counsel for the petitioners, learned Public Prosecutor appearing for the respondent-State, and perused the record.

4. Learned counsel for the petitioners does not deny the fact that the quantity of ganja seized from the petitioners is 48 K.Gs., which is more than the commercial quantity. Learned counsel for the petitioners further submits that even from the *prima-facie* material it can be understood that the petitioners are not guilty and contends that there is no direct seizure from the petitioners but the remand case diary shows that 8 K.Gs. of ganja has been seized from each of the petitioner. He further submits that the Police officials came across some bogies in Konark Express and when they were performing patrolling duty, the petitioners tried to escape from the bogies and the Police officials caught hold of the petitioners and, on interrogation, the petitioners confessed about the commission of the offence.

5. Learned counsel for the petitioners relies on a ruling of the Apex Court in ***Union of India Vs. Niyazuddin S.K. and another***¹ in order to prove his submission that violation of the mandatory provisions of the Act would also entitle the petitioners for bail. But, the contention regarding

¹ AIR 2017 SC 3932

issuance of mandatory notice under Section 50 of the Act is violated, cannot be considered as the facts in the instant case would not reveal that there was any physical search conducted on the petitioners. Under that circumstance alone, securing of the Gazetted Officer is required with regard to Section 50 of the Act. Learned counsel for the petitioners submits that production of the petitioners before the Police officials does not show that any written report was prepared by the Police and the same needs to be proved during the course of trial.

6. Learned Public Prosecutor contends that the investigation is still in progress. Hence, at this stage, it cannot be said that Section 57 of the Act is also violated.

7. Hence, in the above circumstances, and apart from considering that, the petitioners already moved this Court in Criminal Petition No.10808 of 2017 seeking bail and the same got dismissed on 15.11.2017, considering that the seizure of ganja is more than the commercial quantity, the plea of the petitioners for bail cannot be considered. Accordingly, the Criminal Petition is dismissed.

As a sequel, the miscellaneous applications, if any pending, shall stand dismissed.

T. RAJANI, J

Date: 18.01.2018.
Dsh

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Date. 18.01.2018

DSH