

SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.24786 OF 2017

ORDER:

This petition is filed, under Sections 437 and 439 of the Criminal Procedure Code, 1973, seeking to enlarge the petitioner, who is A2, on bail in Crime No.78 of 2016-17 on the file of Excise police station, Srikalahasthi. The offences alleged are under Section 8(c) r/w 20(b)(ii)(c) of N.D.P.S.Act.

2. Heard the counsel for the petitioner and the Public Prosecutor, appearing for the respondent.

3. The counsel for the petitioner submits that except the confession of A1, there is nothing on record to show that this petitioner is guilty of the offence. He contends that no seizure was made from this accused. He further submits that A1 and A3 in this case were already enlarged on bail.

4. The Public prosecutor on the other hand submits that the reason for granting bail to A1 is that she was suffering from HIV and the reason for granting bail to A3 is that he is only assistant to A2. A2 can be seen to be the prime accused, from the confession made by A1. He is stated to be carrying Ganja and he put the Ganja in the house of A1 and absconded on seeing the police. From the confession of A1, which is admissions, it can be understood that this petitioner is the prime accused and that he has been carrying on the

business by sitting in front of the house of A1 and A3 has been only assisting him. The public prosecutor further submits that this petitioner is a habitual offender and that he has been charge sheeted for about three offences. The counsel for the petitioner countering the said contention files the judgment copies in two cases wherein the petitioner was acquitted. The judgments in the two other crimes would show that the petitioner was acquitted, considering that the mandatory provisions of the Act were not complied with. Hence the contention that he is a habitual offender does not get nullified.

5. Hence, in view of the above, this Court opines that this is not a fit case for grant of bail and that the petitioner does come out from the clutches of the Section 37 of NDPS Act.

6. Accordingly, the Criminal Petition is dismissed. Miscellaneous applications, if any pending, in this case shall stand closed.

30.01.2018
SS

T.RAJANI, J