

HON'BLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.2873 of 2019

ORDER :

The petitioner/A.1 has filed the present Criminal Petition under Sections 437 and 439 Cr.P.C. seeking enlargement on bail in F.No.DRI/HZU/48D/ENQ-01(INT-01)/2019 on the file of Directorate of Revenue Intelligence, Zonal Unit, Hyderabad, registered against the petitioner and another for the offences punishable under Sections 22, 28 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity "the NDPS Act").

The brief facts of the case are that, on a specific intelligence, on 02.01.2019, at about 23.30 hours, the Officers of Directorate of Revenue Intelligence (DRI), Zonal Unit, Hyderabad, along with a team of Officers and Panchas laid in wait at the Truck Lay-Bye, situated on the road opposite to New Royal Dhaba, Kamareddy Bye-Pass road of Nagpur-Hyderabad Highway, at that time, a car bearing No.AP 09CE 6066 was cited and on intercepting the said vehicle, two persons seated therein, identified themselves as Sri Thalavelma Raju Goud and Sri Goundla Bala Murali Krishna Goud (A.1 and A.2), that on enquiry by the officers, while A.1 replied in negative, the officers asked A.2 in the presence of panchas to open the boot of the said car and upon opening the boot, they noticed two blue coloured HDPE bags and observed that a pungent smell coming from the said

bags, that on enquiry, A.1 admitted that the said bags contain Alprazolam, a Psychotropic Substance under the NDPS Act, and informed that he had taken delivery of Alprazolam in the said bags from one Sri Shankar and that A.2 does not know about the contents of the said bags and he is only assisting him in transporting the same by his brother's vehicle, that they also found another 8 transparent polythene packages, and the net weight of mixture of the said material comes to 40 Kgs of Alprazolam. Accordingly, the above crime was registered against A.1 and A.2 for the aforesaid offences under the NDPS Act.

Learned counsel for the petitioner/A.1 contends that the petitioner is innocent of the alleged offences and he has been falsely implicated in the said crime, that the officials have not followed the provisions of the NDPS Act, particularly the provisions of Sections 35, 42 and 54 of the said Act have not been complied with and non-compliance of the same would vitiate the entire proceedings. The learned counsel also would contend that A.2 has already been released on bail and the petitioner/A.1, who stands on the same footing with that of A.2, is also entitled for grant of bail on the ground of parity.

Learned counsel for the petitioner/A.1 further contends that there is any amount of ambiguity the way investigation is being conducted, that material part of investigation is already completed and the petitioner/A.1 is ready to abide by any conditions imposed by this Court, including assisting the

investigating agency in the event of his release on bail in the above crime.

On the other hand, the learned Special Public Prosecutor appearing for respondent-DRI filed counter opposing the relief sought in the above bail application stating that the record shows that a *prima-facie* case is made against the petitioner/A.1 under the provisions of the NDPS Act and that the provisions of Sections 35, 42 and 54 of the said Act have been duly complied with by the officials. He further contended that though the petitioner/A.1 contends that he was falsely implicated in the above crime, no cogent reasons have been assigned and no evidence is brought on record to show that the petitioner/A.1 is free of guilt. It is also contended that if the petitioner/A.1 is released on bail, he may tamper with the evidence and may hamper the progress of investigation. He further contends that in view of gravity of offences alleged and the quantity of substance recovered from the possession of the petitioner/A.1, he is not entitled for grant of bail.

Heard learned counsel for the petitioner/A.1 and the learned Special Public Prosecutor appearing for the respondent-Directorate of Revenue Intelligence.

Admittedly, huge quantity of Alprazolam weighing about 40 Kgs, which is more than the commercial quantity, was seized from the possession of the petitioner/A.1 while transporting the same in Indica Car. Further more, the

petitioner is a habitual offender and serious allegations are made against him basing on his own confessional statement. If the petitioner is released on bail, there is every chance of tampering with the evidence and he may indulge in similar offences in future.

Therefore, by taking into consideration the nature of serious allegations made against the petitioner/A.1 and the gravity of offence and as large quantity of Alprazolam has been seized from his possession, I am not inclined to grant bail to the petitioner/A.1.

Accordingly, this Criminal Petition is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE G. SRI DEVI

13.06.2019.
Msr

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13.06.2016
Msr