

THE HON'BLE JUSTICE G.SRI DEVI

Criminal Petition No.3011 of 2019

ORDER:

This Criminal Petition under Section 438 of the Code of Criminal Procedure, 1973, is filed by petitioner/A.2 seeking grant of bail in the event of his arrest in C.R.No.108 of 2018 of Prohibition & Excise Police Station, Jubilee Hills, Hyderabad, registered for the offences punishable under Sections 8 (c) read with 21 (b) & 22 (b) of NDPS Act.

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

The Sub-Inspector of Police, Prohibition & Excise, Station Jubilee Hills, Hyderabad, lodged a complaint on 12.08.2018 stating that on reliable information about transportation of ganja, he along with his staff laid a trap and were waiting at Door No.36, Jubilee Hills. At that time, they noticed a car bearing No.TS 04 ER 7650. They stopped the car and on enquiry, the driver of the car disclosed his identity as Abdul Hameed and on enquiry he disclosed that he was in possession of contraband. After following due procedure, the Sub-Inspector of Police seized 31 sachets containing each gram of Cocaine and also a mobile phone and cash of Rs.7 lakhs from the possession of the said person and recorded his confession statement wherein he disclosed the involvement of the petitioner in the present crime.

It has been submitted on behalf of the petitioner that all the allegations levelled against the petitioner are false and concocted. The petitioner herein is no way concerned or connected with A.1. There is no reasonable ground to believe that the petitioner is

involved in the crime and there is no direct evidence to connect the petitioner with the alleged offence. It is also submitted that there is no bar to grant anticipatory to the petitioner in this case as the offences mentioned in the remand report do not fall under the restrictions of Section 37 of NDPS Act wherein the bar is only for the offences under Sections 19, 24 and 27-A of NDPS Act.

In support of his contentions, learned counsel relied on the judgment of the Tripura High Court in ***Dilip Sutradhar and another vs. State of Tripura***¹.

Per contra, learned Additional Public Prosecutor submits that basing on the confessional statement made by A.1, the details of the present petitioner as to his involvement in the crime was came to light. All the relevant material as to call list details, whatsapp messages and bank account transactions took place between the petitioner and A.1 have been collected by the investigation agency, which specifically and categorically proves that the petitioner is also involved in the offence. He would further submit that the present petitioner belongs to the State of Karnataka and till date he is absconding. As such, investigation in the case could not be completed and charge sheet could not be filed. Since the petitioner is involved in a serious crime, he is not entitled for grant of anticipatory bail.

Looking into the nature of allegations levelled against the petitioner, gravity of offence attributed to him and considering the facts and circumstances of the case, I am not inclined to grant anticipatory bail to the petitioner/A.2. However, if the petitioner surrenders before the competent Court within a period of fifteen days from today and applies for regular bail, the same shall be

¹ 2016 CRI.L.J. 3311

considered by the said Court on the same day, in accordance with law.

With above direction, the Criminal Petition is disposed of.

Miscellaneous petitions, if any, pending in the Criminal Petition, shall stand closed.

JUSTICE G.SRI DEVI

19th June, 2019
sur

