

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.4919 of 2019

ORDER:

This Criminal Petition, under Section 439 of the Code of Criminal Procedure, 1973, is filed by the petitioners/A.1 & A.2, for grant of bail in C.O.R.No.98 of 2019 on the file of Prohibition and Excise Station, Uppal, registered for the offence punishable under Section 8(c) read with 20(b)(ii)(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act').

2. Heard the learned counsel for the petitioners/A.1 & A.2, the learned Additional Public Prosecutor representing the respondent-State and perused the record.

3. The learned counsel for the petitioners/A.1 & A.2 would submit that both the petitioners/A.1 & A.2 are innocent persons and falsely implicated in this case. Further, there is no compliance of provisions under Sections 42, 43 and 50 of the NDPS Act by the investigating agency and ultimately prayed to allow the application.

4. On the other hand, the learned Additional Public Prosecutor opposed the grant of bail to the petitioners/A.1 & A.2 and contended that there is compliance of provisions under Sections 42 & 43 of the NDPS Act by the investigating agency. The quantity of ganja seized in this case is of commercial quantity and ultimately prayed to dismiss the application.

5. In view of the above submissions, the point that arises for determination in this Criminal Petition is:

Whether the petitioners/A.1 & A.2 can be granted bail under Section 439 of Cr.P.C. as prayed for?

6. It is pertinent to state that the petitioners/A.1 & A.2 have earlier filed a bail petition in CrI.M.P.No.3249 of 2019 before the learned Metropolitan Sessions Judge, Cyberabad, Ranga Reddy District at L.B.Nagar. The said bail petition was dismissed by order, dated 22.07.2019, wherein, it has been concluded that the ganja seized is of huge quantity and that the provisions of Section 37 applies to the instant case.

7. As per section 37(1)(b)(ii) of the NDPS Act, twin conditions are required to be satisfied before granting bail to the accused. They are (i) the satisfaction of the Court that there are reasonable grounds for believing that the accused is not guilty of the alleged offence; and (ii) that he is not likely to commit any offence while on bail. These twin conditions are cumulative and not alternative. In the instant case, the ganja seized is of commercial quantity. There is sufficient material to show that 102 kilograms of ganja was recovered from the possession of the petitioners/A.1 & A.2. Under these circumstances, it cannot be concluded that the petitioners/A.1 & A.2 are not guilty of the alleged offences and that they would not indulge in similar offences in future. Under these circumstances, it is not a fit case to grant bail to the petitioners/A.1 & A.2 under Section 439 of Cr.P.C. The Criminal Petition is devoid of merit and is liable to be dismissed.

8. Hence, the Criminal Petition is dismissed.

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

Dr. SHAMEEM AKTHER, J

03rd September, 2019
Bvv

