

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.2222 of 2020

ORDER:

This Criminal Petition, under Section 439 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed by the petitioner/accused No.2 for grant of bail in Crime No.26 of 2020 of Ghatkesar Police Station, Rachakonda, registered for the offence punishable under Section 20(b)(ii) of NDPS Act, 1985.

2. Heard the learned counsel for the petitioner/accused No.2, the learned Public Prosecutor for the respondent/State and perused the record.

3. Learned counsel for the petitioner/accused No.2 would submit that as per the First Information Report, the accused was alleged to have committed the offence under Section 20(b)(ii) of NDPS Act and the said penal provision reveals that ganja seized is not of commercial quantity and therefore, the petitioner/A.2 is entitled for bail. It is further contended that Section 50 of NDPS Act, has not been complied and ultimately prayed to allow the application.

4. On the other hand, learned Public Prosecutor opposed the grant of bail and contended that there was no personal search of petitioner/A.2 and therefore, Section 50 of NDPS Act has no application. The quantity of ganja seized is above the commercial quantity. Therefore, the petitioner/A.2 is not entitled for bail during trial and ultimately prayed to dismiss the application.

5. As seen from the material placed on record, on 16.01.2020 around 13:30 hours, while the petitioner/A.2 along with A.3 and A.4 were traveling in Toyota Innova car bearing No.AP 05 CB 0855, the police stopped the said vehicle during vehicle check near Ghatkesar ORR toll plaza and on search, the police found 47 small bags containing ganja and the same was seized under a cover of panchanama in the presence of mediators. The total quantity of ganja seized is 51 kgs, which is more than commercial quantity. The ganja seized was not recovered from the person of petitioner/A.2. Therefore, it is difficult to state that Section 50 of NDPS Act has application to the facts of the case on hand and its non-compliance is fatal. Under these circumstances, it cannot be determined that the petitioner/A.2 is innocent person and he would not repeat similar type of offences in future. In view of the quantity of ganja seized and the allegations made against the petitioner/A.2, it is not a fit case to grant bail as prayed for. This petition is devoid of merits and is liable to be dismissed.

6. Accordingly, the Criminal Petition is dismissed.

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

Date: 29.05.2020.
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Dr. SHAMEEM AKTHER, J