

HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION No. 8267 of 2021

O R D E R:

This Criminal Petition under Sections 437 and 439 Cr.P.C. is filed by petitioner – Accused No. 2 in Crime No. 296 of 2021 on the file of P.S. Halia registered for the offence punishable under Section 20(b)(ii)(C) of Narcotic Drugs and Psychotropic Substances Act, 1985, seeking bail.

2. Prosecution alleges that petitioner - Accused No.2 used to purchase ganja from Accused No.1 at cheaper rate of Rs.4,000/- per kg. and sell the same to his friend, who is Accused No.3 at higher rate of Rs.6,000/-. On a phone call received, petitioner –Accused No.2 purchased 1 kg. ganja from Accused No.1 and came to Halia in RTC bus and was waiting there for giving the same to Accused No.3. In the meantime, police apprehended petitioner and seized 1.08 kgs. of ganja which was packed in one packet.

3. Learned counsel for petitioner Sri M.A.K. Mukheed submits that petitioner was arrested on 23.09.2021 and since then, he has been languishing in jail. He further submits that contraband of 1 kg. was seized in this crime. It is also submitted that petitioner has no criminal antecedents. According to him, while conducting search and seizure, police failed to follow the procedure contemplated under the provisions of the NDPS Act, as such, there is no bar under Section 37 of the said Act to grant bail to petitioner.

4. On the other hand, learned Assistant Public Prosecutor submits that investigation is still pending and at this stage, petitioner is not entitled for grant of bail. However, he does not dispute the fact that petitioner has no criminal antecedents.

5. Taking into consideration the fact that contraband seized from the petitioner is only 1 kg., which is not commercial quantity and further, as nothing is forthcoming to show that petitioner has criminal antecedents, this Court is of the opinion that there is no bar under Section 37 of the NDPS Act to grant bail to him.

6. The Criminal Petition is therefore, allowed. The petitioner - Accused No. 2 shall be enlarged on bail in connection with Crime No. 296 of 2021, P.S. Halila, on his executing a personal bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two sureties for a like sum each to the satisfaction of the Judicial First Class Magistrate at Nidamanoor. The petitioner – Accused No. 2 shall appear before the police till completion of trial on every Sunday between 10.00 a.m. and 1.00 p.m.

LALITHA KANNEGANTI, J

22nd November 2021

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