

HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION No.8876 of 2021

ORDER:

This Criminal Petition under Sections 437 and 439 Cr.P.C. is filed by petitioner – Accused No. 2 in Crime No.118 of 2021 on the file of Prohibition and Excise Station, Khammam II Town Police Station, Khammam District, registered for the offence punishable under Section 8(c) read with Section 20(b)(ii)(c) of Narcotic Drugs and Psychotropic Substances Act, 1985, seeking bail.

2. The case of the prosecution is that on 30.10.2021, on credible information, the Prohibition and Excise Inspector along with his staff conducted raid at Warangal X Roads, Khammam, and found petitioner/A2 along with A1 in possession of 9 kgs of ganja each, total 18 kgs, and seized the same under a cover of panchanama.

3. Learned counsel for petitioner Sri P. Ananth Nageswar Rao, submits that contraband of 9 kgs of ganja was seized from the possession of petitioner/A2 and he was arrested on 30.10.2021. He submits that the petitioner is unconnected with the alleged offence and the police have failed to follow the procedure under the provisions of NDPS Act while conducting search and seizure. He further submits that even if the entire contraband is taken into consideration i.e., 18 kgs, is not a commercial quantity and as such, there is no bar under Section 37 of NDPS Act and petitioner's case may be considered for grant of bail.

4. On the other hand, learned Assistant Public Prosecutor submits that as per the panchanama, the accused have procured the contraband jointly and they are residents of Maharashtra State and if they are enlarged on bail at this stage, it is very difficult to secure their presence during trial. He also submits that so far 4 witnesses were

examined and FSL report is awaited in this crime. However, as investigation is still in progress, he submits that the petitioner is not entitled for bail.

5. Taking into consideration the fact that contraband seized in this crime is only 18 kgs, which is not a commercial quantity and as petitioner is languishing in jail since 30.10.2021, and also there is nothing forthcoming to show that petitioner has criminal antecedents, this Court deems it appropriate to grant bail to him.

6. The Criminal Petition is therefore, allowed. Petitioner - Accused No.2 shall be enlarged on bail in connection with Crime No.118 of 2021 on the file of Prohibition and Excise Station, Khammam II Town Police Station, Khammam District, 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 Special Judicial Magistrate of First Class (for Prohibition and Excise Cases) at Khammam. Petitioner – Accused No.2 shall appear before the police on every Sunday between 10.00 a.m. and 1.00 p.m, till completion of trial. Since the petitioner belongs to Maharastra State, he shall not leave the State till completion of trial.

LALITHA KANNEGANTI, J

8th December 2021

sj