

HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION No.9381 of 2021

O R D E R:

This Criminal Petition under Sections 437 and 439 Cr.P.C. is filed by petitioner – Accused No.4 in Crime No.49 of 2021 on the file of Padara Police Station, Nagarkurnool District, registered for the offence punishable under Section 20 (b) (ii) (B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “NDPS Act”), seeking bail.

2. The case of the prosecution is that on 12.08.2021 at 7.30 a.m. A-1 and A-2 purchased 500 grams of Cannabis from the petitioner (A-4) with the help of A-3. It is stated that A-3 to A-6 together purchased total contraband of Cannabis of 23.500 grams from A-7 to earn money easily. Police arrested A-1, A-2 and A-4, recorded their confession and seized the contraband under the cover of panchanama. Basing on the same, the present crime was registered.

3. Heard Sri Tera Rajinikanth Reddy, learned counsel for petitioner and learned Assistant Public Prosecutor for respondent-State.

4. Learned counsel for the petitioner submits that petitioner is alleged to have committed the offence under the provisions of NDPS Act and he was remanded to judicial custody on 12.08.2021 and from the last 138 days, he is languishing in jail. He submits that while conducting seizure and search, police failed to follow the procedure contemplated under NDPS Act and the petitioner is implicated in this case. He submits that petitioner has no criminal antecedents.

5. *Per contra*, learned Assistant Public Prosecutor submits that 24 Kgs of Ganja, which is a commercial quantity was seized in this case and there is another crime registered against the petitioner in Cr.No.296 of 2021 on 23.09.2021 on the file of Halia (Alwal) PS, Nalgonda District. He submits that as the quantity of contraband seized is commercial quantity, there is a bar under Section 37 of NDPS Act to grant bail, further as the petitioner has got criminal antecedents, he is not entitled for bail.

6. In reply, learned counsel for petitioner submits that even as per the panchanama and confession of other accused in Crime No.296 of 2021, they have given contraband to petitioner on 23.09.2021 and by that date, petitioner was in judicial remand and the police are implicating the petitioner in one after other case, as such his case may be considered for grant of bail.

7. Taking into consideration the fact that petitioner is languishing in jail from the last 138 days and further Crime No.296 of 2021 was registered against the petitioner while he was in judicial remand, this Court deems it appropriate to grant bail to the petitioner.

8. Accordingly, this Criminal Petition is allowed. Petitioner / Accused No.4 shall be enlarged on bail 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 I Additional District and Sessions Judge, Mahabubnagar.

LALITHA KANNEGANTI, J

29th December 2021

PVD

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Allowed

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29th December, 2021

PVD