

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION No.1018 of 2022

ORDER:

This petition is filed under Sections 437 and 439 of Code of Criminal Procedure, 1973 (for short "Cr.P.C") seeking regular bail to the petitioner/A.5 in connection with Crime No.144 of 2021 of Wyra Police Station, Khammam District, wherein the petitioner is alleged to have committed the offence punishable under Section 8(c) read with 20(b)(ii) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act').

2. The case of the prosecution is that on 11.08.2021 while the Sub-Inspector of Police, Wyra Police Station, checking the vehicles at Ring Center of Wyra village, A.1 to A.4 were found in posesion of dry ganja of 16 kgs, which they were transporting in Hero Glamour motor cycle bearing No.TS 25 A 5958. On interrogation, they stated that they purchased the said ganja from accused No.5. The police seized 16 kgs. of ganja from them and arrested the accused under the cover of mediators report. Basing on the said report, the present crime was registered.

3. Heard Mr.Parsa Ananth Nageswar Rao, learned counsel for petitioner, and learned Additional Public Prosecutor for respondent-State.

4. Learned counsel for the petitioner submits that the alleged contraband of 16 kgs. is seized in this crime, which is not a commercial quantity and there is no bar under Section 37 of the NDPS Act to grant bail. He submits that nothing has been seized from the possession of the petitioner and entire allegations are against A.1 to A.4 and basing on the confession of A.1 to A.4, the petitioner has been arrayed as accused. He further submits that A.1 to A.4 were already

granted bail by this Court in Crl.P.No.6891 of 2021 on 15.09.2021. It is submitted that the petitioner has no criminal antecedents. The petitioner is implicated in this case falsely and he is languishing in jail from 30.12.2021. Hence, the petitioner's case may be considered for grant of bail.

5. On the other hand, learned Additional Public Prosecutor submits that investigation is pending and so far five witnesses were examined. He does not dispute the fact that A.1 to A.4 were already granted bail by this Court and petitioner has no criminal antecedents. As the investigation is still pending, the petitioner is not entitled for bail, at this stage.

6. Taking into the consideration the fact that the contraband that is seized is only 16 kgs., which is not a commercial quantity and there is no bar under Section 37 of the NDPS Act, A.1 to A.4 were already granted bail by this Court and nothing is forthcoming to show that the petitioner is a habitual offender, this Court deems it appropriate to grant bail to the petitioner/A.5.

7. Accordingly, this Criminal Petition is allowed and the petitioner/A.5 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 Additional Judicial First Class Magistrate, Madhira. On such release, the petitioner shall appear before the Station House Officer, Wyra Police Station, on every Sunday between 10.00 a.m. and 1.00 p.m. till the trial is completed.

Miscellaneous applications, pending if any, shall stand closed.

LALITHA KANNEGANTI, J

Date: 10.02.2022

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