

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION No.1019 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/accused in connection with COR No.112 of 2021 of Prohibition and Excise Station, Khammam-I, wherein the petitioner is alleged to have committed the offence punishable under Section 8(c) read with 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act').

2. The case of the prosecution is that on 03.11.2021, the Prohibitino and Excise Inspector, Khammam, along with his staff conducted raids near bus stand area, Khammam, and found the accused is in illegal possession of 11.5 kgs. of dry ganja. The police seized 11.5 kgs. of dry ganja from him 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 11.5 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 the petitioner was arrested and remanded to judicial custody on 03.11.20221 and ever since he has been languishing in jail. He further submits that the petitioner has no criminal antecedents. It is submitted that earlier petitioner has moved application, vide CrI.P.No.9008 of 2021 seeking bail and the same was dismissed on 31.12.2021 on the ground that the petitioner belongs to Madhya Pradesh. Learned counsel submits that the petitioner is ready to cooperate with the

investigation and ready to abide by the conditions imposed by this Court. Hence, the petitioner's case may be considered for grant of bail.

5. On the other hand, learned Additional Public Prosecutor submits that as there are no changed circumstances, the second bail application is not maintainable. He submits that petitioner belongs to Madhya Pradesh and if he is enlarged on bail, at this stage, it is difficult for the prosecution to secure his presence during the course of trial. Hence, 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 11.5 kgs., which is not a commercial quantity and there is no bar under Section 37 of the NDPS Act, and nothing is forthcoming to show that the petitioner is a habitual offender, this Court deems it appropriate to grant bail to the petitioner/accused.

7. Accordingly, this Criminal Petition is allowed and the petitioner/accused 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 Special Judicial Magistrate of First Class for (Proh.& Excise Cases), Khammam. On such release, the petitioner shall appear before the Station House Officer, Prohibition and Excise Station, Khammam-I, on every Sunday between 10.00 a.m. and 1.00 p.m. till the trial is completed. Further, the petitioner shall not leave the State without prior permission of the concerned Court.

As a sequel, all the pending miscellaneous applications shall stand closed.

LALITHA KANNEGANTI, J

Date: 10.02.2022
mar