

**THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI**

**CRIMINAL PETITION Nos.7716, 7459 and 7987 of 2021**

**COMMON ORDER:**

Since all these criminal petitions arise out of the same crime, they are being disposed of by this common order.

2. CrI.P.No.7716 of 2021 is filed by petitioner/A1, CrI.P.No.7459 of 2021 is filed by petitioners/A2 to A6 and CrI.P.No.7987 of 2021 is filed by petitioner/A7 under Section 438 Cr.P.C., seeking bail in connection with Cr.No.176 of 2021 on the file of Parkal Police Station, Warangal Rural District, registered for the offence punishable under Section 8(c) read with Section 20(b) of Narcotic Drugs and Psychotropic Substances Act, 1985.

3. The case of prosecution is that on 08-08-2021 at about 6.30 am, on credible information, the Sub-Inspector of Police along with his staff was conducting vehicle checking near S.C.Colony at the outskirts of Parkal, they apprehended one TATA ACE Trolley bearing No.AP 24 AX 7715, found the accused, and on search, they seized 64.410 kgs of ganja under a cover of panchanama.

4. Heard learned counsel for the petitioner/A1 Ms. Sujatha Kurapati, learned counsel for the petitioners/A2 to A6 Mr. A. Prabhakar

Rao and learned counsel for the petitioner/A7 Mr.T. Sujan Kumar Reddy, and learned Assistant Public Prosecutor for the respondent.

5. Learned counsels for the petitioners submit that the petitioners are arrayed as A1 to A7 and they are alleged to have committed the offence under Section 8 (c) read with 20 (b) of NDPS Act and a contraband of 64.410 kgs is seized in this crime. Learned counsels submit that the police have completed the investigation and filed the charge sheet. They further submitted that except the confession of the accused, there is no other material to connect the petitioners with the alleged crime. Learned counsels submit that the alleged contraband is seized from the auto and A2 is the owner of the said auto and even as per the remand report, the alleged ganja was packed in plastic covers, hidden by arranging extra iron plates and fixed with screws to TATA ACE vehicle to avoid doubt to others and loaded them. Learned counsels submit that the accused were travelling in the auto as passengers and they have no knowledge about the transportation of ganja, which is hidden in the auto. Learned counsels have relied on the judgment of the Apex Court in **Tofan Sing v. State of Tamil Nadu**<sup>1</sup>, wherein it was held that the arrests made by the petitioner-NCB, on the basis of the confessions/voluntary statements of the respondents or the co-accused under Section 67 of the NDPS Act, cannot form basis for overturning the impugned orders releasing them

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<sup>1</sup> (2021) SCC online SC 882

on bail. Learned counsels also relied upon the judgment of the Apex Court in **State by (NCB) Bengaluru v. Pallulabid Ahmad Arimutta and another in Crl.A.No.242 of 2022**, wherein it was observed that no substantial material was available with the prosecution at the time of arrest to connect the accused with the allegations leveled against them of indulging in drug trafficking. Learned counsels further submit that the petitioners were arrested on 08.08.2021 and from the last 180 days, they are languishing in jail. They submit that *prima facie*, except the confession, there is no other material to connect the accused with the alleged crime. Hence, they could satisfy the conditions under Section 37 of the NDPS Act and their case may be considered for grant of bail.

6. On the other hand, learned Assistant Public Prosecutor submits that all the accused were travelling in the auto and they have knowledge about transportation of ganja and further, A2 is the owner of the vehicle. He submits that to earn money, all the accused have indulged in transportation of ganja and the alleged contraband of 64.410 kgs is a commercial quantity. He submits that the entire investigation is completed, charge sheet is filed and there is a *prima facie* case against the petitioners. He submits that some of the petitioners also have criminal antecedents and in view of the bar under Section 37 of the NDPS Act, they are not entitled for bail.

7. In this case, A1 to A7 were travelling in the auto at the time of alleged occurrence. A2 is the owner of the auto and admittedly, the contraband is hidden in the auto. It is the case of A1 and A3 to A7 that they were travelling in the auto as passengers and they have no knowledge about the transportation of ganja and the presence of the contraband in the auto. It is also submitted that except the confession, the investigation does not reveal the participation of the accused in the alleged crime. In the light of the law laid down by the Honourable Apex Court in **Tofan Singh's** case (supra) and **State by (NCB) Bengaluru's (supra)** and except the confession statement, there is no other material to connect the accused to the alleged crime. This Court is of the view that A1, A3 to A7 could satisfy the twin conditions under Section 37 of the NDPS Act and this Court deems it appropriate to enlarge them on bail.

8. As far as A2 is concerned, as he is the owner of the auto, this Court is not inclined to grant bail to A2 and accordingly, as far as A2 is concerned, Crl.P.No.7459 of 2021 is dismissed.

9. Crl.P.No.7716 and 7987 of 2021 are allowed and Crl.P.No.7459 of 2021 is partly allowed. Petitioners-A1, A3 to A7 shall be enlarged on bail in Crime No.176 of 2021 on the file of Parkal Police Station, Warangal Rural District, on their executing a personal bond for a sum of Rs.50,000/- (Rupees fifty

thousand only) each with two sureties for a like sum each to the satisfaction of the Sessions Judge for NDPS Cases-cum-I Additional Sessions Judge, Warnagal. On such release, they shall appear before the police concerned till completion of trial on every Sunday between 10.00 a.m. and 1.00 p.m.

**LALITHA KANNEGANTI, J**

9<sup>th</sup> March, 2022.

sj