

THE HONOURABLE Dr. JUSTICE D. NAGARJUN

CRIMINAL PETITION No.382 OF 2023

ORDER:

This Criminal Petition is filed by the petitioner/accused No.1 under Sections 437 & 439 of the Criminal Procedure Code, 1973 seeking bail in Crime No.96 of 2022 of Station House Officer, Prohibition and Excise Station, Balanagar, registered for the offence under Sections 20 (b) (ii) (B) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. Heard Sri M. Amarnath, learned counsel for the petitioner/accused No.1 as well as Sri T. V. Ramana Rao, learned Additional Public Prosecutor for the Respondent / State and perused the record.

3. The case of the prosecution is that the petitioner/accused No.1 was apprehended on 11.11.2022 and the accused No.1 to 3 were found in possession of dry ganja of 2.197 kgs., and transporting the same in the dicky of Honda Activa 6G Scooter bearing No. JK 15 E W 3018700 and seized the said Honda Activa, mobile phone including 2 sims and cash of Rs.9,000/- from the possession of the

accused No.1 to 3.

4. It is submitted by the learned counsel for the petitioner/accused No.1 that the petitioner/accused No.1 has been in judicial custody since 11.11.2022 and that the petitioner has not committed any offence and he is innocent and that the petitioner/accused No.1 is nothing to do with the offence alleged and that the other two accused were already enlarged on bail and prayed for grant of bail.

5. On the other hand, learned Additional Public Prosecutor for the State / Respondent has opposed for grant of bail by contending that the petitioner/accused No.1 is a habitual offender and he is also involved in another crime and prayed for dismissal of the petition.

6. As seen from the record, the contraband seized by the Police is 2.197 kgs dry ganja which is not a commercial quantity and when there is no commercial quantity, the only ground to see for enlarging the petitioner is whether the petitioner is likely to commit similar offence in case if he is released on bail and whether he is likely to jump the bail and whether he is likely to tamper the witnesses. As seen from

the remand case diary, material witnesses have already been examined and the samples were already sent to Forensic Scientific Laboratory and except filing of charge sheet the investigation is almost completed. There is no apprehension from the prosecution in respect of alleged tampering of witnesses, except that the petitioner/accused No.1 is involved in another case. Merely because the petitioner/accused No.1 is involved in another crime, it is not a ground for dismissal of bail petition. According to the learned counsel for the petitioner/accused No.1, more than 80 days have been lapsed and the petitioner is a resident of Hyderabad city.

7. Considering the facts and circumstances of the case, this is a fit case for grant of regular bail to the petitioner/accused No.1 on conditions.

8. Accordingly, the Criminal Petition is allowed subject to the following conditions:

i) The petitioner / accused No.1 is directed to be released on bail on his executing personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two

sureties each for a like sum to the satisfaction of the learned Metropolitan Sessions Judge, Medchal-Malkajgiri District.

ii) On such release, the petitioner / accused No.1 shall appear before the Station House Officer, Prohibition and Excise Station, Balanagar, on every Monday, Wednesday & Friday between 10:00 AM to 12:00 PM., until further orders or until charge sheet is filed, whichever is earlier.

iii) The petitioner/accused shall abide by the other conditions stipulated in Section 437(3) of the Criminal Procedure Code.

As a sequel, pending Miscellaneous Applications in this matter, if any, shall stand closed.

Date: 19-Jan-2023
KHRM

DR. D.NAGARJUN, J

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