

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.1267 OF 2024

ORDER:

This Criminal Petition is filed under Section 438 of Code of Criminal Procedure, 1973 (for short “Cr.P.C”) seeking anticipatory bail to the petitioner/Accused No.3 in Crime No.02 of 2024 on the file of Station House Officer, Prohibition and Excise Police Station, Balanagar, registered for the offence punishable under Section 8 (c) read with 20(b) (ii) (B) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’).

2. The case of the prosecution in brief was that on 10.01.2024 at about 03:00 hours, the Station House Officer, Balanagar, along with Prohibition and Excise District Task Force Medchal District, conducted joint route watch near Flyover Bridge, Fathenagar road and found Accused Nos.1 and 2 on a blue colour Suzuki Access 125 and seized 1.2 kgs., of dry ganja from their possession and registered the above case. Basing on the confession of A1 that the contraband dry ganja was supplied by the petitioner-A3, the name of the petitioner was implicated in the present case.

3. Heard learned counsel for the petitioner-Accused No.3 and learned Additional Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioner submitted that the petitioner was not present at the scene of offence. He was implicated in the case basing on the confession of A1 and relied on the judgment of the Hon'ble Supreme Court in **Toofan Singh Vs State of Tamil Nadu¹** and **Vijay Singh Vs. State of Haryana²** and prayed to enlarge the petitioner on bail.

5. Learned Additional Public Prosecutor submitted that the petitioner was the supplier of the dry ganja as per the confession of A1 and he was also involved in another case in C.O.R No.75 of 2021 of Excise Police Station, Balanagar wherein 6 kgs., of dry ganja was seized from his possession and opposed grant of anticipatory bail to the petitioner.

6. Perused the record. Considering that only an intermediary quantity i.e. 1.2 kgs., of dry ganja was seized from the possession of A1 and no contraband was seized from the possession of the petitioner and his name was implicated basing on the confession of A1, the truth or otherwise of it could be decided only during the course of trial, it is considered fit to grant anticipatory bail to the petitioner on certain conditions.

7. Accordingly, the Criminal Petition is allowed and the petitioner-accused No.3 shall be released on anticipatory bail subject to the following

¹ (2021) 4 SCC 1

² SLP (Crl.) Nos.1266/2023

conditions:

- 1) The petitioner/accused No.3 is directed to surrender before the Station House Officer, Prohibition and Excise, Balanagar Police Station, within a period of two (02) weeks from the date of receipt of a copy of this order. On such surrender, the said Station House Officer shall release the petitioner/accused No.3 on bail, on his executing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties for a like sum each to the satisfaction of the said Station House Officer.
- 2) The petitioner/accused No.3 shall abide by the conditions stipulated under Section 438(2) of Cr.P.C., and shall co-operate with the Investigating Officer in investigation of the case.

Miscellaneous applications, pending if any, shall stand closed.

Date: 20.02.2024
dsv/ds

Dr. G.RADHA RANI, J