

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.2396 OF 2024

ORDER:

This Criminal Petition is filed by the petitioner – Accused No.7 under Sections 437 and 439 of Code of Criminal Procedure, 1973 (for short “Cr.P.C”), to release him on regular bail in Crime No.421 of 2023 on the file of Moinabad Police Station, Ranga Reddy District, registered for the offences punishable under Sections 20(b)(ii)(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’) and 120-B of Indian Penal Code, 1860 (for short, ‘IPC’).

2. The case of the prosecution in brief was that on 15.12.2023 the Sub-Inspector of Police of Moinabad Police Station, Cyberabad lodged a report stating that while he was on patrolling duty, he received credible information that two persons were in possession of dry ganja at a semi new construction plot of about 150 Square yards, situated at Moinabad Mandal. Immediately, he along with his staff proceeded to the said place and apprehended accused Nos.2 and 3 and seized 100 Kgs, of dry ganja (total 50 bundles), each bundle weighing 2 kgs from their possession. Accused Nos.2 and 3 confessed that they purchased the contraband from accused No.4 and

brought the same to sell to accused Nos.1 and 7. Basing on the confession of accused Nos.2 and 3, accused Nos.1 and 7 were arrested on 17.01.2024 and since then the petitioner was in judicial custody.

3. Heard the learned counsel for the petitioner-Accused No.7 and the learned Additional Public Prosecutor.

4. Learned counsel for the petitioner submitted that no contraband was seized from the possession of the petitioner/accused No.7. The police had not collected any material to connect the petitioner with the alleged offence, the confession of co-accused was inadmissible as per the Judgment of the Hon'ble Apex Court in **Toofan Singh v. State of Tamilnadu**¹, and prayed to enlarge the petitioner on bail.

5. Learned Additional Public Prosecutor submitted that the contraband was brought by accused Nos.2 and 3 to sell it to the petitioners/accused Nos.1 and 7. Though no contraband was seized from the possession of the accused No.7, it was seized from the possession of accused Nos.2 and 3, who brought it to sell to the

¹ (2021) 4 SCC 1

petitioner/accused No.7 and as per their confession, accused No.7 was arrested and prayed to dismiss the bail application of the petitioner.

6. Perused the record.

7. Considering that no contraband was seized from the possession of the petitioner and the petitioner was implicated in the case as per the confession of accused Nos.2 and 3, which was inadmissible in evidence, as per the Judgment of the Hon'ble Apex Court in **Toofan Singh** case (cited supra), it is considered fit to enlarge the petitioner on bail.

8. Accordingly, this Criminal Petition is allowed and the petitioner – accused No.7 shall be released on regular bail subject to the following conditions:

- i) The petitioner/Accused No.7 shall execute 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 learned XIII Additional Metropolitan Sessions Judge: Cyberabad, Ranga Reddy district at L.B.Nagar.

- ii) The petitioner/Accused No.7 shall abide by the conditions stipulated in Section 437(3) of Cr.P.C.

Miscellaneous applications, pending if any, shall stand closed.

Dr. G.RADHA RANI, J

Date:04.03.2024
dgr