

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.3534 OF 2024

ORDER:

This Criminal Petition is filed by the petitioner – Accused No.1 under Section 438 of Code of Criminal Procedure, 1973 (for short “Cr.P.C”), to grant anticipatory bail in Crime No.169 of 2024 of Narsingi Police Station, Cyberabad District, registered for the offences punishable under Sections 8(c) read with 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, ‘NDPS Act’).

2. The case of the prosecution in brief was that on 28.01.2024 at 22:00 hrs, the Sub-Inspector of Police, Narsingi Police Station, lodged a complaint stating that on receipt of credible information, he along with his staff and panch witnesses, proceeded to Front Line Seven Apartment, opposite to MGIT College, on Shankarpally to Narsingi Road, Kokapet Village, Ranga Reddy District and found a lady (A2) with a black colour hand bag moving near the said apartment. On enquiry, she disclosed her details and admitted that she was carrying MDMA powder in her bag. On

personal search of A2 in the presence of a Gazetted Officer, the police found a polythene cover with four sachets of white powder, one glass bottle and one Oppo mobile phone in her hand bag and she admitted that the powder in the sachets was MDMA. On weighing, it was found 4 grams. The police seized the property and apprehended A2. A2 confessed that one Uneeth Reddy (A1) used to bring MDMA powder from Bangalore and sell it to the needy customers. She was habituated to consume drugs along with A1 and his girl friend Indira@ Indu (petitioner herein-A3) and on the instructions of A1, she along with A3, used to sell drugs to the needy customers. Basing on the report lodged by the SI of Police, Narsingi Police Station, the above crime was registered.

3. Heard the learned counsel for the petitioner-Accused No.1 and the learned Additional Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioner/accused No.1 submitted that no contraband was seized from the possession of the petitioner/accused No.1. Only upon the confession of accused No.2,

the petitioner herein was arrayed as accused and no *prima facie* case was made out against the petitioner/accused No.1. The allegations made in the complaint were without any basis, he was falsely roped in the case and prayed to enlarge the petitioner/accused No.1 on anticipatory bail. He further submitted that accused No.3 was granted anticipatory bail vide order dated 28.02.2024 in CrI.P.No.2258 of 2024.

5. Learned Additional Public Prosecutor opposed grant of anticipatory bail to the petitioner/accused No.1 stating that as per the confession of accused No.2, he was the person who supplied the contraband to accused No.2. He brought the contraband from Bangalore and handed over to accused No.2. He was also involved in two other cases, one registered against him at Pattabhipuram police station of Guntur District and another at Mokila police station at Hyderabad. Both the cases were pertaining to NDPS offences and as such, opposed grant of anticipatory bail to the petitioner.

6. Perused the record.

7. Considering that no contraband was seized from the

possession of the petitioner and his name was incorporated only basing upon the confession of accused No.2 and as per the Judgment of Hon'ble Apex Court in **Toofan Singh v. State of Tamilnadu**¹, the confession of accused made before the police is inadmissible under law even under NDPS offences and as per the Judgment of the Hon'ble Apex Court in **Vijay Singh v. State of Haryana**², where no contraband was seized from the petitioner therein and he was implicated in the case basing upon the confession of a co-accused, wherein also on similar facts, the Hon'ble Apex Court granted bail to the petitioner therein, it is considered fit to enlarge the petitioner on anticipatory bail.

8. Accordingly, the Criminal Petition is allowed directing the petitioner/accused No.1 to be released on anticipatory bail subject to the following conditions:

- i) The petitioner-Accused No.1 is directed to surrender before the Station House Officer, Narsingi Police Station, Cyberabad District, within a period of (15) days from the date of this order. On

¹ (2021) 4 SCC 1

² 2023 SCC Online SC 1235

such surrender, the said Station House Officer shall release the petitioner 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 said Station House Officer.

- ii) The petitioner/Accused No.1 shall abide by the conditions stipulated in Section 438(2) of Cr.P.C.
- iii) If the petitioner/accused No.1 is reported to be involved in any other cases, the bail granted is liable to be cancelled.

Miscellaneous applications, pending if any, shall stand closed.

Date: 2nd April, 2024
dgr

Dr. G.RADHA RANI, J