

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.3985 OF 2024

ORDER:

This Criminal Petition is filed by the petitioners-Accused Nos.4 and 5 under Sections 437 & 439 of Code of Criminal Procedure, 1973 (for short “Cr.P.C.”) for grant of regular bail in Crime No.220 of 2024 of Kukatpally Police Station, Medchal-Malkajgiri District, registered for the offences under Sections 8(c) read with 22(b), 27 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’).

2. The case of the prosecution in brief was that on 28.02.2024 at 19:00 hours, the Sub-Inspector of Police of Kukatpally Police Station lodged a report stating that at about 15:00 hours, he received reliable information that three individuals were selling prohibited drugs at Kukatpally bus stop. Believing the same to be true, after obtaining necessary permission from his superior officer under Section 42(2) of the NDPS Act, he along with his staff and panch witnesses proceeded to the Kukatpally bus stop at 16:10 hours. The informer identified the three persons, as such, they apprehended them, enquired about their particulars and brought them to the Kukatpally police station and recorded their confession cum seizure panchanama in the presence of the Gazetted

Officer and seized nine (09) grams of MDMA drug from the possession of A3 (petitioner herein). A3 confessed that A1 and A2, were his juniors in intermediate and when they were residing in Bangalore, he used to go to their room and there he was addicted to injecting MDMA drug and used to buy MDMA drug from them. Similarly, he contacted Yashwant and Surya Prakash (A1 and A2) and they sent him a shoe cover containing drug on 27.02.2024 in the green land travels bus (Bangalore to Hyderabad) stating to the driver that they were sending shoes. He received the said drug and while he was trying to sell the same to A4 and A5, police arrested him. Basing on the said report, the above crime was registered against A1 to A5 and A3 to A5 were arrested on 28.02.2024 at 20:00 hours.

3. Heard learned counsel for the petitioners-accused Nos.4 and 5, and the learned Additional Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioners submitted that the petitioners were innocent. The police had falsely created a case against the petitioners, arrested them and sent to judicial remand. Even as per the remand report, there were no specific allegations against the petitioners herein. The petitioner No.1-A4 was running the business of his father i.e. Sai Hotel at Nellore. The petitioner No.2-A5 was working as a Software employee. The police had not traced out any single transaction of payment

of money for purchase of drugs in online or offline by the petitioners. No amount was seized by the police from the petitioners.

4.1 He further submitted that the petitioner No.2-A5 met with an accident at Sangareddy Jail on 11.04.2024 while working in kitchen as hot sambar fell on him. He was taken to Government Hospital, Sangareddy and from there, he was referred to Gandhi Hospital, Secunderabad for further treatment. He sustained 35% burn injuries and prayed to enlarge the petitioners on regular bail.

5. Learned Additional Public Prosecutor opposed grant of bail to the petitioners.

6. Perused the record. Considering that no contraband was seized from the possession of the petitioners herein, and though it was alleged that they came to Kukatpally bus stop for purchase of the contraband MDMA drug from A3, no cash was even seized from their possession, if they came to purchase the contraband and the petitioners were in custody for the past 50 days and their guilt or innocence could be determined only after a full-fledged trial and the petitioner No.2-A5 is also stated to have sustained 35% burn injuries during his custody in jail, it is considered fit to enlarge the petitioners on bail on certain conditions.

7. Accordingly, this Criminal Petition is allowed and the petitioners-Accused Nos.4 and 5 shall be released on regular bail subject to the following conditions:

- i) The petitioners-Accused Nos.4 and 5 shall execute a personal bond for a sum of Rs.25,000/- (Rupees twenty Five thousand only) each with two sureties for a like sum each to the satisfaction of the I Additional Junior Civil Judge cum XII Additional Metropolitan Magistrate, Medchal-Malkajgiri District at Kukatpally.
- ii) The petitioners-Accused Nos.4 and 5 shall abide by the conditions stipulated in Section 437(3) of Cr.P.C.

Miscellaneous applications, pending if any, shall stand closed.

Date: 18.04.2024
KTL

Dr. G.RADHA RANI, J