

THE HONOURABLE DR.JUSTICE G. RADHA RANI

CRIMINAL PETITION No.4056 of 2024

ORDER:

This petition is filed by the petitioner – A5 under Section 437 and 439 of Code of Criminal Procedure for grant of regular bail in Crime No.631 of 2023 of P.S. Kukatpally, Cyberabad, registered for the offence under Section 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 09.07.2023 at 15:30 hours, the Detective Inspector of Police of P.S. Kukatpally received credible information about some unknown persons transporting dry ganja illegally from Bhadrachalam to Zaheerabad via kukatpally. He informed the same to Assistant Commissioner of Police, Kukatpally Division, obtained permission for search. He gave a requisition to the MRO, Kukatpally to depute two Government officials to act as panch witnesses and along with his staff and panch witnesses proceeded to ‘Y’ junction, kukatpally and started checking the vehicles. During the process, he stopped an Innova vehicle bearing No. TS 12 EN 4987 going towards JNTU, in which three persons were found in the said car and another Innova vehicle bearing No. GJ 23 M 4227 with two persons. On search of both the vehicles they found contraband ganja in the second Innova vehicle bearing No. GJ 23 M 4227 and seized 230 Kgs of dry ganja found in 115 packets, each

packet weighing 2 Kgs., found in 9 gunny bags, under the cover of panchanama. On enquiry, the said persons revealed their details and stated that as per the instructions of one Arjun(A6), resident of Zaheerabad, they went to Bhadrachalam in two innova vehicles and procured contraband dry ganja from Vantala Raghuram @ Fayaz (A7) R/o Maredumilli, AP state and loaded the same in the Innova vehicle bearing No.GJ 23 M 4227 and were going to Zaheerabad and the other vehicle was coming as escort to the 2nd vehicle. Basing on the report given by the Detective Inspector of Police, the above crime was registered and the persons travelling in both the vehicles were shown as A1 to A5 and were arrested on 09.07.2023 and after investigation charge sheet was filed against A1 to A7, showing A7 as absconding.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor.

4. Learned counsel for the petitioner submitted that the petitioner – A5 was a priest in the temple. No contraband was recovered from the possession of the petitioner. He was not having any criminal antecedents and not likely to commit any offence while on bail. A4 was released on bail as per the order of this Court in CrI.P.No.3123 of 2024 dated 21.03.2024. The claim of the respondent No.2 that the petitioner was apprehended at ‘Y’ junction, Kukatpally on 09.07.2023 at 16.40 hours was false. As per the mobile phone location of the petitioner, he was in Hyderabad on 08.07.2023 and was not in

Bhadrachalam as claimed by the respondent No.2. Respondent No.2 illegally arrested and detained the petitioner along with other accused persons in the early hours of 09.07.2023. The petitioner was not the owner of the Innova vehicle bearing No.TS 12 EN 4987 nor he was driving it nor the respondent No.2 found any ganja in the said vehicle. The petitioner had no connection with A2, A3, A4, A6 and A7 nor he had any information about the other vehicle bearing No. GJ 23 M 4227 mentioned by the respondent No.2 in his complaint, FIR, remand case dairy, etc. The petitioner filed CrI.P.No.11707 of 2023 before this Court to produce call data records, location details and tracking details of the mobile phone of the petitioner as per I.A.No.3 of 2023 in the said petition. This Court granted liberty to the petitioner to file the application before the lower court. Accordingly, the petitioner filed a petition under Section 91 of Cr.P.C. before the I Additional District and Sessions Judge-cum-Metropolitan Sessions Judge, Medchal-Malkajgiri District to produce requisite call data records, tracking details and location details of the petitioner's mobile. The petitioner was in custody since 10.07.2023 for the past more than 275 days. The entire investigation was completed and charge sheet also filed and prayed to enlarge the petitioner on bail.

5. Learned Additional Public Prosecutor opposed grant of bail to the petitioner stating that a huge quantity of contraband dry ganja of about 230 Kgs. was recovered from the Innova vehicle bearing No. GJ 23 M 4227 and the

petitioner was travelling as an escort in another Innova vehicle bearing No.TS 12 EN 4987. As per the charge sheet, as per the instructions of A6, on 08.07.2023, A1 and A2 went to Zaheerabad and met A6. In the meanwhile, A6 handed over one Innova vehicle bearing No.GJ 23 M 4227 for transporting ganja and also gave Rs.15,000/- to A1 towards rent of the escort Innova vehicle. A1 took Innova vehicle bearing No.TS 12 EN 4987 on rent from A4 (which belonged to one Ram Dev), then A1 handed over one Innova vehicle bearing No. GJ 23 M 4227 with full tank of diesel for transporting ganja to A2 and he took the escort vehicle bearing No.TS 12 EN 4987. On the instructions of A6, A2 started driving the Innova vehicle bearing No.GJ 23 M 4227 and A1 followed him in another Innova vehicle bearing No.TS 12 EN 4987. On the way at Miyapur, A3 boarded the vehicle of A2 and at Sanga Reddy, A5 boarded the escort vehicle of A1. From there, A1 to A3 proceeded to Bhadrachalam on the night of 08.07.2023. A1 made a phone call to the number given by A6 and two persons came there on a bike and they instructed A2 to follow them in the Innova vehicle bearing No.GJ 23 M 4227. Accordingly, A2 and A3 followed the bike of A7, and A7 loaded 9 gunny bags containing 230 Kgs. of dry ganja into the Innova vehicle and after sometime, A2 and A3 came to the place where A1 and A5 were waiting. In the early morning hours of 09.07.2023, all the accused A1 to A3 and A5 started in both the Innova vehicles and when they reached Balanagar, A4 boarded the escort Innova vehicle, in which A1 and A5

were travelling. When they reached the Kukatpally 'Y' Junction at 15:30 hours, the Detective Inspector of police, Kukatpally apprehended them.

6. Perused the record.

7. As per the charge sheet filed by the police, the present petitioner – A5 travelled along with A1, A2 and A3 to Bhadrachalam on 08.07.2023 and while they were escorting the second Innova vehicle in which the contraband was transported, apprehended on 09.07.2023 at 15:30 hours at Kukatpally 'Y' Junction. As per the petitioner, he was not present in Bhadrachalam on 08.07.2023 and his call data records and mobile phone location details would prove the story of prosecution as false. He was illegally arrested and detained by the respondent No.2 in the early hours of 09.07.2023.

8. As these facts can be proved only during the trial and even as per the charge sheet filed by the police, the petitioner was not travelling in the vehicle in which the contraband was recovered and he was in custody for the past more than 275 days and subjected to the harsh deprivation of liberty without trial and he need to effectively prepare for his defence and as no criminal antecedents are reported against him, it is considered fit to release the petitioner-A5 on bail on certain conditions.

9. Accordingly, this Criminal Petition is allowed and the petitioner/A5 shall be released on regular bail subject to the following conditions:

- i) The petitioner/A5 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 I Additional District and Sessions Judge-cum-Metropolitan Sessions Judge, Medchal-Malkajgiri District at Kushaiguda.
- ii) The petitioner/A5 shall appear before the trial court during the trial and shall abide by the conditions stipulated in Section 437(3) of Cr.P.C..

Miscellaneous applications, pending if any, shall stand closed.

Date:23.04.2024
ss

Dr. G.RADHA RANI, J