

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.4276 OF 2024

ORDER:

This Criminal Petition is filed by the petitioner – Accused No.3 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.105 of 2024 on the file of Bachupally Police Station, Cyberabad District, registered for the offence under Section 20(b)(ii)(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short ‘NDPS Act’).

2. The case of the prosecution in brief was that on 02.02.2024, the S.I of police, Bachupally Police Station received credible information that two persons were transporting dry ganja and were coming towards Bachupally from Gandimaisamma. Believing the said information to be true, on compliance of the requirement under Section 42(2) of NDPS Act, he proceeded to the said place along with the panch witnesses and his staff. While conducting vehicle checking at 10:00 hours they stopped a grey colour Maruthi Eco Van, bearing No.AP-13-QH-1769 coming from Gandimaisamma to Bachupally. When they stopped the said vehicle, they found two persons in the car. On search of the vehicle they found two boxes in

the back seat of the vehicle, consisting of 11 plastic packed covers containing dry ganja and the same was covered by 8 plastic polythene covers containing kaju nuts. Total 22 Kgs of dry ganja was recovered from 11 plastic covers. The persons in the car were shown as A1 and A2. On enquiry, A1 and A2 revealed that they purchased the said contraband from A3. Basing on the confession of A1 and A2, the petitioner - A3 was apprehended from his house on 04.02.2024 in the evening hours and cash of Rs.10,000/- was seized from him. The petitioner-A3 was produced before the Court on 05.02.2024 and since then he was in custody.

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

4. Learned counsel for the petitioner – Accused No.3 submitted that the petitioner was falsely implicated only basing upon the confession of A1 and A2, the said confession was not admissible under law as per the judgment of the Hon'ble Supreme Court in *Tofan Singh Vs. State of Tamil Nadu*¹. The petitioner was not

¹ 2020 SCC Online SC 882

present during the alleged seizure from A1 and A2 and no contraband was seized from his possession. The prosecution was relying on some financial transactions between A1 and A2 and the petitioner - A3 linking these transactions to the alleged sale of contraband. Mere existence of financial transactions between A1, A2 and A3 could not be presumed to be related to the Narcotic drug transactions. The petitioner was in custody for the past 80 days. As per the acknowledgment given by the police, at the time of his apprehension, he was apprehended on 03.02.2024. But the same was shown as 04.02.2024 in the remand report which was blatantly false. The petitioner was suffering with health problems with antibodies infection and spinal cord abnormalities and prayed to enlarge the petitioner on bail.

5. Learned Additional Public Prosecutor opposed grant of bail to the petitioner stating that as per the confession of A1 and A2, there were several financial transactions between them and a commercial quantity of contraband was supplied by the present petitioner to A1 and A2. He belonged to the State of Andhra Pradesh, securing his presence for trial would be difficult, as such, opposed grant of bail to the petitioner.

6. Perused the record. Considering that no contraband was seized from the house of the petitioner and the petitioner was apprehended basing on the confession of A1 and A2, which was not admissible under law as per the judgment of Hon'ble Supreme Court in *Tofan Singh Vs. State of Tamil Nadu (1 Supra)* and as the petitioner was in custody for the last 80 days, without any admissible evidence on record against him, it is considered fit to enlarge the petitioner – Accused No.3 on bail.

7. Accordingly, the Criminal Petition is allowed and the petitioner – Accused No.3 shall be released on regular bail subject to the following conditions:

- i) The petitioner – Accused No.3 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 learned I Additional District and Sessions Judge-cum-Metropolitan Sessions Judge, Medchal Malkajgiri District, at Kushaiguda.
- ii) The petitioner – Accused No.3 shall abide by the conditions stipulated in Section 437(3) of Cr.P.C.
- iii) The petitioner shall appear before the trial Court on all the dates when the matter is posted for trial.

Miscellaneous applications, pending if any, shall stand closed.

Dr. G.RADHA RANI, J

**Date:26.04.2024
dsv**

THE HONOURABLE DR.JUSTICE G.RADHA RANI

CRIMINAL PETITION No.4162 OF 2024
Dated:25.04.2024

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