

THE HON'BLE Dr. JUSTICE G. RADHA RANI

CRIMINAL PETITION No.4705 of 2024

ORDER:

This Criminal Petition is filed by the petitioner/A3 under Section 438 of Cr.P.C. for grant of anticipatory bail in COR No.76 of 2024 on the file of the Prohibition & Excise Station, P.S. Dhoolpet, Hyderabad registered for the offence under Section 8(c) read with 20(b)(ii)(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 20.03.2024 at 03:00 P.M., on receipt of credible information about illegal possession and sale of dry ganja, the Prohibition and Excise SI, STF-A, Hyderabad along with his staff raided the house of A1 at Gangabowli, Dhoolpet, Hyderabad. They found A1 and A2 in the said house. On enquiry, A1 revealed that she kept the dry ganja in almyrah locker located in her bedroom and voluntarily led the Investigating Officer to her bed room. On opening the locker in the almyrah, the Prohibition and Excise SI found two transparent polythene covers containing flowering and fruit tops. On weighing, they found 2.8 Kgs of loose dry ganja in one polythene cover and 12 plastic sachets of dry ganja weighing about 300

grams in the second polythene cover, in total 3.1 Kgs of dry ganja. On enquiry, A1 revealed that she purchased the said contraband from Raja Babu (petitioner herein), resident of Mangalhat, Dhoolpet at the rate of Rs.10,000/- per Kg. and the packet of 25 grams for Rs.1,000/-. The SI seized the said contraband, affected the arrest of A1 and A2, registered the above case and produced the accused before the Court.

3. Heard the learned counsel for petitioner/A3 and the learned Additional Public Prosecutor representing the respondent-State.

4. Learned counsel for the petitioner/A3 submitted that no contraband was seized from the possession of the petitioner. The petitioner was implicated as an accused basing on the confession of the co-accused which was inadmissible and relied upon the judgment of the Hon'ble Apex Court in **Vijay Singh Vs. The State of Haryana**¹ and prayed to enlarge the petitioner/A3 on anticipatory bail.

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

6. Perused the record.

¹ SLP (CrI.) No.1266 of 2023 dated 17.05.2023.

7. Considering that except the confession of A1, no further investigation was conducted by the police about the whereabouts of the present petitioner and his house was not searched and no contraband was recovered from him and the confession of A1 is inadmissible in law, as per the judgment of the Hon'ble Apex Court in **Tofan Singh Vs. State of Tamil Nadu**², it is considered fit to enlarge the petitioner/A3 on anticipatory bail with certain conditions.

8. Accordingly, the Criminal Petition is allowed and the petitioner/A3 shall be released on bail subject to the following conditions:

- 1) The petitioner/A3 is directed to surrender before the Station House Officer, Prohibition and Excise Station, P.S. Dhoolpet, Hyderabad, within a period of 15 days from the date of this order. On such surrender, the said Station House Officer shall release the petitioner on bail, on his executing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties for a like sum each to the satisfaction of the said Station House Officer.

² 2021 (2) SCC (Crl.) 246

- 2) The petitioner/A3 shall abide by the conditions stipulated under Section 438(2) of Cr.P.C.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. G. RADHA RANI, J

Date: 29.04.2024

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