

THE HONOURABLE SRI JUSTICE N.TUKARAMJI

CRIMINAL PETITION No.5524 OF 2024

ORDER

This petition is filed under Section 438 of the Code of Criminal Procedure (for short 'Cr.P.C.') seeking anticipatory bail.

2. The petitioner is accused No.6 in Crime No.324 of 2024 of Gachibowli Police Station, Hyderabad within the jurisdiction of XIII Metropolitan Sessions Judge, Cyberabad, Ranga Reddy District.

3. Heard Mr. A. Prabhakar Rao, learned counsel for the petitioner, as well as Sri S.Sudarshan, learned Additional Public Prosecutor, representing the respondent-State.

4. The prosecution case in brief is that on 13.03.2024 the complainant on reliable information surprised the house premises bearing No. 1-24/4 & 5 at Lodha Basthi, Nanakramguda and found four persons/accused Nos.1 to 4 in possession of a cotton bale containing 11 packets of ganja weighing about 22.6 kgs. Further in the statement of admission the accused No.1, referred the name and involvement of the petitioner in the offence. Thus the petitioner committed the offences under Sections 8(c) r/w 20(b)(ii)(B) of the NDPS Act.

5. Learned counsel for the petitioner would submit that the petitioner is son of accused Nos.1 and 2 and except for the relationship, he has no involvement in the offence. Further the petitioner has been falsely implicated only by relying on the statement of the co-accused/accused Nos.1 and 2. He asserted that the Hon'ble Supreme Court in *Toofan Singh V. State of Madras – (2021) 4 SCC 1* has held that the confessional statement of the co-accused is inadmissible in evidence. In absence of any other legally acceptable evidence, prosecuting the petitioner would be unjust. However, the petitioner is ready to cooperate with the investigation and abide by the conditions that may be imposed. As the petitioner is apprehending arrest basing on the unsustainable basis, prayed for grant of anticipatory bail.

6. Learned Additional Public Prosecutor opposed the bail application and pleaded that on the relevant date the accused Nos.1 to 4 who are the family members of the petitioner were apprehended while in possession of 22.6 kgs. of contraband. Further the petitioner is also facing similar offences in other pending crimes. However, fairly admitted that the involvement of the petitioner was brought on record basing on the statement of

accused No.1 and so far there is no other material against the petitioner.

7. I have considered the submissions of the learned counsel.

8. The record is indicating that on the relevant date the petitioner was not found in the premises of the house which was surprised by the complainant team. Though the relationship between the accused and the petitioner is not in dispute only basing on such relationship or statement of one of the accused about his involvement in conducting business of contraband and the dictum of the Hon'ble Supreme Court in *Toofan Singh* (supra), this Court finds ground to grant anticipatory bail to the petitioner.

9. Accordingly, the Criminal Petition is allowed on the following conditions:

- i) The petitioner/accused No.6 is directed to surrender before the Station House Officer, Gachibowli Police Station, Hyderabad, on or before 20.06.2024. Upon such surrender, the Station House Officer shall release the petitioner on bail, on his executing personal bond for a sum

of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties for a like sum each to his satisfaction.

- ii) The petitioner/accused No.6 shall inform the residence details and contact particulars to the Court and the Investigating Officer on affidavit and update the same from time to time during pending of the matter.
- iii) The petitioner/accused No.6 shall appear before the investigating officer on every Tuesday and shall also make himself available for interrogation as and when required by the Police till filing of charge sheet.
- iv) The petitioner/accused No.6 shall not leave India without permission of the Court and shall deposit his passport and in case, he does not possess a passport, he shall file an affidavit to that effect.
- v) The petitioner/accused No.6 shall abide by the other conditions stipulated in Section 438(2) of

Cr.P.C and shall co-operate with the Investigating
Officer in investigating the case.

Any failure in abiding by the above condition would entitle
the prosecution to take appropriate steps for cancellation of bail.

Pending miscellaneous applications, if any, in this Criminal
Petition shall stand closed.

N.TUKARAMJI, J

Date:11.06.2024
ccm