

THE HONOURABLE SRI JUSTICE N.TUKARAMJI

CRIMINAL PETITION No.6581 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.2 in COR No.6 of 2020 of PS; Prohibition and Excise, Dhoolpet, Hyderabad, within the jurisdiction of the I Addl. Metropolitan Sessions Judge, Hyderabad.

3. Heard Mr. A. Prabhakar Rao, learned counsel for the petitioner, as well as Sri Khaja A. Vizarath Ali, learned Assistant Public Prosecutor for the respondent-State.

4. The prosecution case in brief is that on 06.01.2020, the complainant on reliable information surprised the house premises bearing No.13-1-1055 at Lalbangla, Upper Dhoolpet, Hyderabad and found accused No.1 in possession of 1.200kgs of ganja. 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 No.1 and except for the relationship, he has no involvement in the offence. The petitioner has been falsely implicated only by relying on the statement of the co-accused/accused No.1. 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 material, 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, prayed for grant of anticipatory bail.

6. Learned Assistant Public Prosecutor opposed the bail application and pleaded that on the relevant date the accused No.1 who is the mother of the petitioner was apprehended while in possession of 1.200kgs. of contraband. Nevertheless, 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. The accusation is only based on the statement of one of the accused. These aspects in the light of the dictum of the Hon'ble Supreme Court in *Toofan Singh* (supra), are making this Court to positively consider the prayer of the petitioner for grant of anticipatory bail.

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

- i) The petitioner/accused No.2 is directed to surrender before the Station House Officer, Prohibition and Excise, Dhoolpet, Hyderabad, on or before 10.07.2024. 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.2 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.2 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.2 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:01.07.2024
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Dt.01.07.2024

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