

THE HONOURABLE SMT JUSTICE K. SUJANA

CRIMINAL PETITION No.13376 of 2024

ORDER:

This Criminal Petition is filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner/Accused No.2 seeking bail in the event of his arrest in connection with FIR.No.178 of 2024 before the Mogullapally Police Station, Jayashankar Bhupalpally District, registered for the offences punishable under Sections 8(c), 20(b)(ii)(A) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act').

2. The brief facts of the case are that the on 03.10.2024 at 12:00 hours, the Police seized dry ganja stored in a transparent plastic cover. The complainant lodged a complaint stating that he received credible information at 06:30 hours that some individuals were transporting prohibited ganja in RTC buses from Varikol

Village to Mogulapally Mandal. Following standard procedure, the complainant made a G.D. Entry as per Section 42(2) of the NDPS Act and informed his superiors and at 08:30 hours, the complainant, accompanied by panch witnesses, a photographer, and a digital weighing machine, proceeded to Raavichettu area, where they apprehended Accused No.1, who was found with 220 grams of dry ganja worth Rs.5,000/-, purchased from the petitioner/Accused No. 2.

3. Heard Sri P.Sreedhar Reddy, learned counsel for petitioner, and Sri Rudresh Deshpande, learned Assistant Public Prosecutor, appearing for respondents – State.

4. Learned counsel for petitioner submitted that except for Accused No.1 mentioning the name of petitioner and his involvement in the alleged transportation of ganja, there is no evidence on record against the petitioner which would prove his involvement in the alleged crime. He contended that the

petitioner is innocent and not connected to the alleged crime in any manner. He asserted that though the registration of the crime was under Sections 8(c) and 20(b)(ii)(A) of the NDPS Act, the guidelines in prescribed in **Arnesh Kumar vs. State of Bihar**¹ were not followed. He lamented that the Accused No.1 in the crime was granted bail on 03.10.2024. Further, given that the contraband has already been seized and the same is not of commercial quantity, there is no need to apprehend or arrest the petitioner. Therefore, prayed this Court to allow the criminal petition, granting the relief of anticipatory bail to the petitioner.

5. On the other hand, the learned Assistant Public Prosecutor, vehemently opposed the submissions made by learned counsel for petitioner and contended that the petitioner was implicated in the case basing on the confession made by Accused No.1 and the investigation in the matter is not yet completed. Therefore, prayed this Court to dismiss the criminal petition.

¹ (AIR 2014 SC 2756)

6. Having regard to the rival submissions made and on going through the material placed on record, it is noted that the quantity of contraband seized is small quantity and the accused No.1 in the case was already arrested and interrogated by the Police and thereafter, was released on bail. Further, the punishment prescribed for the offences as alleged against the petitioner/accused No. 2 is less than seven years, this Court deems it appropriate to grant anticipatory bail to the petitioner.

7. Accordingly, this petition is allowed granting anticipatory bail to the petitioner subject to the following conditions:

- i. The petitioner shall surrender before the Station House Officer of Mogullapally Police Station, Jayashankar Bhupalpally District, within two weeks from today, and on such surrender, the said

Station House Officer shall release him on bail on executing a personal bond for Rs.25,000/- with two sureties, for the like sum each.

- ii. The petitioner shall abide by the other conditions stipulated in Section 482(2) of Bharatiya Nagarik Suraksha Sanhita, 2023 and co-operate with the Investigating Officer in investigating the case.

Miscellaneous applications, if any pending, shall stand closed.

K. SUJANA, J

Date: 22.11.2024
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