

THE HON'BLE MS JUSTICE B.S.BHANUMATHI

Criminal Petition No.1181 of 2023

ORDER:

This Criminal Petition is filed by petitioner/A2 under Sections 437 and 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C'), seeking bail in Crime No.53 of 2022 of Mothugudem Police Station, East Godavari District, registered on 13.02.2022 for the offence punishable under Section 8(c) r/w 20(b)(ii)(C) of N.D.P.S. Act, 1985.

2. Heard the learned counsel for the petitioner/A2 and the learned Assistant Public Prosecutor representing the respondent/State.

3. The case of the prosecution is that on 13.02.2022, while vehicle checking was being conducted, Innova car bearing No. AP 28 AW 0153 was stopped and four persons tried to escape from there and that S.I. of Mothugudem Police Station and his staff chased them. They could apprehend only one person i.e., A3 and found a total of 230 kgs of ganja in the said car. However, A2 could be arrested only under PT Warrant on 14.09.2022.

4. Learned counsel for the petitioner submitted that the identity of the petitioner is based only on the alleged confession of the co-accused A3 and except that there is no other evidence to connect the petitioner to the alleged offence and requested to enlarge the petitioner on bail.

5. Learned Assistant Public Prosecutor submitted that A3 gave telephone number with which the commission of the offence can be attributed to A2 as well. He further stated that charge sheet was filed on 18.10.2022 and therefore, the petitioner is not even entitled to mandatory bail and moreover, since the quantity of contraband involved in the case is a huge quantity of 230 kgs, the petitioner does not deserve bail. He further added that in the event of grant of bail, necessary conditions may be imposed to secure his presence to face the trial as he belongs to Telangana State.

6. Though the telephone numbers are recorded in the confession, so far no material has been placed in the file to show the nexus of the petitioner to the alleged offence. Except the alleged confession of A3, there is no other material to show the case against the petitioner in spite of filing the charge sheet. As such, the petitioner can be enlarged on bail, however, subject to certain conditions.

7. Accordingly, the Criminal Petition is allowed. The petitioner/A2 (Vijay Kumar Chavan @ Chohan, S/o Roop Singh) shall be released on bail on his furnishing personal bond for a sum of Rs.1,00,000/- (Rupees one lakh only) each with two sureties (out of whom, one shall be a local) for the like sum each, to the satisfaction of the learned Judicial First Class Magistrate, Rampachodavaram and subject to complying the following conditions:

(i) The petitioner/A2 is directed to appear before the Station House Officer, Mothugudem Police Station, East Godavari District, on every Sunday between 10:00 AM and 05:00 P.M. starting from the day of his release until further orders.

(ii) The petitioner/A2 shall not directly or indirectly contact or threaten the witnesses under any circumstances and any such attempt shall be construed as an attempt of influencing the witness.

(ii) The petitioner/A2 shall not leave the jurisdiction without prior permission of the Court concerned.

Pending miscellaneous applications, if any, shall stand closed.

B.S.BHANUMATHI, J

Date:03-03-2023
GSP

15

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CRL. P.No. 1181 of 2023

03.03.2023

GSP