

THE HON'BLE MS JUSTICE B.S.BHANUMATHI

Criminal Petition No.1629 of 2023

ORDER :

This Criminal Petition is filed seeking bail under Section 437 and 439 of the Code of Criminal Procedure, 1973 ('CrPC') to the petitioner/A.1 in Crime No.342 of 2022 of Kadiyam Police Station, registered on 13-10-2022 for the offence punishable under Section 8 (c) r/w 20(B) (ii) (C) of NDPS Act.

2. Heard learned counsel for the petitioner/A.1 and Sri.P.M.Mithileswara Reddy, learned Special Assistant Public Prosecutor representing the respondent/State.

3. The case of prosecution is that A.1 to A.3 were carrying 21.940 kgs of ganja on 13.10.2022 and were taken into judicial custody on 14.10.2022.

4. Learned counsel for the petitioner submitted that false case was foisted against the petitioner. He further submitted that A.3 was granted bail by the Special Court in CrI.M.P.No.465 of 2023 on 23.03.2023.

5. Learned Special Assistant Public Prosecutor opposed the petition and submitted that the quantity of contraband involved in this case is more than commercial quantity and the investigation is still pending and the case against the petitioner is well founded as he was caught red handed. He further submitted that the petitioner is the

habitual offender and he has involved in several other crimes as follows:

1. Crime No.341 of 2015 under Section 324 r/w 34 IPC
2. Crime No.226 of 2017 under Section 341, 323, 506 r/w 34 IPC.
3. Crime No.69 of 2018 under Section 324, 109 r/w 34 IPC,
4. Crime No.273 of 2019 under Section 341, 506, 324 r/w 34 IPC,
5. Crime No.419 of 2020 under Section 307 r/w 34 IPC
6. Crime No.106 of 2021 under Section 506 IPC and Section 155 (2) Cr.P.C. of II Town L& O P.S. Rajamahendravaram
7. Crime No.443 of 2021 under Section 109 Cr.P.C. of Bommuru P.S. and also maintain rowdy sheet vide No.1 of 2021 in II Town L& O P.S., Rajamahendravaram.

6. Perused the record.

7. The Special Court observed that A.3 was in judicial custody for more than 5 months, the trial may not be commenced in short time as the charge sheet is not yet filed and the quantum of ganja is slightly above the non commercial quantity and granted bail. Whether it is slightly above or largely above, the quantity of contraband involved is within the parameters of commercial quantity and therefore, Section 37 of NDPS Act applies and the bail application shall be disposed of within the parameters of Section 37 of NDPS Act. Therefore, for grant of bail, the Court must be satisfied that there are reasonable grounds to believe that the accused is not guilty of the offence. Since in the present case, the petitioner was caught red handed along with other

two accused, it is not a case to observe that he is not guilty of the offence. Still the investigating officer has time to file the charge sheet after completion of investigation. Therefore, the petitioner cannot be granted bail.

8. In the result, the petition is dismissed.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE B.S.BHANUMATHI

Date : 27-03-2023

SAB