

THE HON'BLE MS JUSTICE B.S.BHANUMATHI

Criminal Petition No.549 of 2023

ORDER :

This Criminal Petition is filed seeking bail under Sections 437 and 439 of the Code of Criminal Procedure, 1973 ('CrPC') to the petitioner/A.3 in Crime No.234 of 2021 of Makavarapalem Police Station, registered on 26.08.2021 for the offence punishable under Section 20(b) (ii) (c), 25 r/w 8 (c) of Narcotic Drugs and Psychotropic Substances Act, 1985, originally against A1 and A2.

2. Heard learned counsel for the petitioner/A.3 and learned Assistant Public Prosecutor representing the respondent/State.

3. The case of prosecution, in brief, is that on 26.08.2021 140 kgs of Ganja was seized from a car and that two persons who were fleeing by escaping from the car were nabbed and as per the statement of their confession, the petitioner/A3 was piloting their car.

4. Learned counsel for the petitioner submitted that the petitioner has been falsely implicated merely based on the alleged confession of A1 and A2. He further submitted that the petitioner has been taken in custody in relation to this crime under P.T. warrant on 01.08.2022 and since then, more than 180 days elapsed, but no charge sheet has been filed.

5. Learned Assistant Public Prosecutor submitted that the charge sheet was not filed and no petition under Section 36-A of NDPS Act was filed.

6. As such the petitioner is entitled to bail, however subject to conditions.

7. In the result, the petition is allowed. The petitioner/A.3 shall be released on bail on his executing personal bond for a sum of Rs.50,000/- (Rupees fifty thousand only) with two sureties for the like amount each, to the satisfaction of the learned Metropolitan Sessions Judge-cum- I Additional District & Sessions Judge- Special Judge for Trial of Offences under NDPS Act, Visakhapatnam, if the custody of the petitioner is not required in any other case, and subject to complying the following conditions:

- i. The petitioner/A.3 shall appear before the Station House Officer, Makavarapalem Police Station on every Sunday between 10.00 A.M. and 5.00 P.M. starting after of his release on bail in this crime until further orders or till charge sheet is filed, whichever is earlier.
- ii. The petitioner/A-3 shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to

dissuade him from disclosing such facts to the Court or to any Investigating or Police Officer;

- iii. He shall co-operate with the investigation, and shall not tamper the evidence.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE B.S.BHANUMATHI

Date : 21-02-2023

SAB