

HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

CRIMINAL PETITION No.1483 OF 2022

ORDER:-

This criminal petition under Section 439 of the Code of Criminal Procedure, 1973 is filed to enlarge the petitioners on bail.

2. The petitioners are A-1 and A-2 in Crime No.106 of 2021 of Ananthagiri Police Station, Visakhapatnam District.

3. A case under Section 8(c) read with Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS' Act) was registered against the petitioners in the above crime.

4. Briefly stated, it is the case of the prosecution that on 29.12.2021, when the police reached the scene of offence and conducting vehicle check on receipt of reliable information relating to illegal transportation of ganja that they found one Maruti Alto car bearing No.GJ 12EE 6721 coming towards them and two persons travelling in the said car tried to escape after seeing the police from some distance. Police apprehended them. When they searched the car, they found ganja with seeds, buds, streams and flowers in a polythene cover in the dicky of the car. Subsequently, when the police got the same weighed, they found that it is 60 KGs of ganja being transported in the said car. Police seized the said contraband and arrested the accused in the presence of mediators. Therefore, it is stated that the petitioners have committed the aforesaid offence.

5. Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the State.

6. The contraband that is seized from the possession of the petitioners is 60 KGs of ganja which is a commercial quantity. Although it is contended by learned counsel for the petitioners that the quantity of ganja is not mentioned in the F.I.R and that it was subsequently stated in the remand remand that quantity of ganja is 60 KGs and as such it is a false allegation, the said contention has no merit. The facts of the case show that after ganja was found in the car and after it was seized that the police got the same weighed subsequently and found that it was 60 KGs of ganja. Therefore, in the said facts and circumstances of the case, mere non-mentioning of exact quantity of ganja in F.I.R by itself is not fatal to the case of the prosecution. As the quantity of ganja that was seized from the possession of the petitioners is a commercial quantity, the bar and rigour contained in Section 37 of the NDPS Act applies to the present facts of the case. There is nothing on record to indicate that the petitioners are not guilty of committing the said offence. On the other hand, as the ganja was seized from the possession of the petitioners while they were transporting the same, the accusation made against them is *prima facie* well founded. Investigation in this case is still pending. Therefore, the petitioners are not entitled to bail at this stage.

7. Resultantly, the Criminal Petition is dismissed.

JUSTICE CHEEKATI MANAVENDRANATH ROY

Date : 08.04.2022
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THE HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY

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