

Jaini Bharath Kumar vs The State Of Andhra Pradesh on 14 July, 2022

HON'BLE SRI JUSTICE SUBBA REDDY SATTI

CRIMINAL PETITION NO. 4810 OF 2022

ORDER:

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This petition under Section 438 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") is filed by the petitioner/A6 seeking anticipatory bail in the event of his arrest in connection with Crime No.28 of 2020 of Nagarjunasagar Police Station, Guntur District, registered for the offences punishable under Sections 188, 273, 328 and 420 read with 34 of the Indian Penal Code, 1860 (for short „IPC), under Sections 57, 58, 63 of the Food Safety and Standards Act, 2006 (for short „FSS Act) and Sections 8(c) read with Section 20(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity "NDPS Act").

2. Petitioner along with other accused has been facing prosecution on the allegation of his involvement in illegal transportation and possession of tobacco products and 1500 grams of ganja, which were seized from possession of the accused.

3. Heard Sri Raja Reddy Koneti, learned counsel for the petitioner and Sri Soora Venkata Sainath, learned Special Assistant Public Prosecutor for the respondent-state.

4. Learned counsel for the petitioner submits that petitioner is innocent and he is falsely implicated in the crime. Learned counsel submits that even as per the confessional statements, the persons found in the vehicle stated that it was loaded with tobacco products and the names of the persons who are dealing with tobacco products, are shown as accused in the present crime. He submits that the products which are being transported will not fall under the definition of FSS Act and tobacco products are defined under COPT Act. He further submits that the quantity of ganja found in possession of the accused is not commercial quantity, as such bar under Section 37 of the NDPS Act is not attracted and sale or possession of tobacco products is not an offence. He submits that some of the accused against whom similar allegations were made, granted bail, by orders, dated 23.09.2020 and 20.10.2021 passed in CrI.P.Nos.3902 of 2020 and 5702 of 2021 respectively. Hence, he prays to grant bail to the petitioner.

5. Learned Special Assistant Public Prosecutor opposed the bail petition on the ground that investigation is pending.

6. Admittedly possession of tobacco products is not an offence and to attract the alleged offences, there must be some material to show that such products consist of poisonous substances endanger to the life of human being. In the case on hand, there is no material to establish the offences

punishable under Sections 188, 273, 328 and 420 read with 34 of IPC and Sections 57, 58, 63 of FSS Act, against the petitioner. Further the quantity of ganja seized from the other accused is less than commercial quantity and petitioner was arrayed as accused basing on confession made by Co-accused. Therefore, in view of the same and keeping in view the principle of parity, as this Court granted bail to some of the accused against whom similar allegations are made, this Court deems it appropriate to grant bail to the petitioner.

7. Accordingly, the Criminal Petition is allowed and the petitioner/A6 shall be enlarged on bail in the event of his arrest in connection with crime No.28 of 2020 of Nagarjunasagar Police Station, Guntur District on his executing a bond for a sum of Rs.20,000/- (Rupees twenty thousand only) with two sureties each for a likesum to the satisfaction of Station House Officer, Nagarjunasagar Police Station, Guntur District.

Consequently, miscellaneous applications pending, if any, shall stand closed.

JUSTICE SUBBA REDDY SATTI Date :14.07.2022
IKN HON'BLE SRI JUSTICE SUBBA REDDY SATTI Allowed CRIMINAL PETITION No.4810 OF
2022 14.07.2022 IKN