

ORDER BELOW EXH.6

(Passed on 8th February 2023)

1] This is an application under Section 439 of the Code of Criminal Procedure for release on bail. I have heard learned Advocate for the accused, learned APP and perused charge-sheet.

2] Briefly stated the prosecution case against eight accused and one Juvenile in conflict with law is that on 08/06/2022 the police of RPF were checking New Delhi Andhra Pradesh Express, below berth No.1 to 12 in coach No.S-5 they found bag kept from which pungent smell was coming and when they asked lady accused Sonam, she has not given satisfactory answer and in the bags kept under berth No.1 to 12 they found the accused were travelling by keeping Ganja in their bags and eight bags of the accused were checked in presence of panchas and Gazetted officer i.e. Tahsildar and total 106.807 Kg. Ganja was found, panchnama was prepared, photographs were taken, from the accused mobiles, railway tickets were also seized. At that time the accused No.8 Sonu Thakur i.e. the present applicant had run away so he was caught later on. The Juvenile in conflict with law was produced before the Juvenile Justice Board, charge-sheet has been filed against remaining accused for the offences under Section 20(B) II (C), 29 of NDPS Act.

3] As per the applicant/accused he has not played any role in commission of the offence. He does not know the accused. Compliance of Section 50 of the NDPS Act was not done. Entire material was seized from the train. No independent witnesses are examined. He has no criminal antecedents.

4] Learned APP strongly opposed the application and submitted that accused No.1, 3 to 6, 8 and 9 were travelling together from Visakhapatnam and from the accused persons 106.807 Kg. Ganja was seized. The accused disclosed that they brought Ganja from Vijay Nagar. The copies of a lodge where accused were stayed and statement of manger of the lodge as well as CCTV footage, CDR and mobile of this accused indicate that he was very much present and in contact with co-accused. The two are still absconding. Bar of Section 37 of the NDPS Act is applicable. It is also submitted that against this accused there is offence of murder registered at Saibaba police station, District Ghaziabad. This accused was absconding in that case and on information given to that police station this accused has been produced before concern Court.

5] Prima facie perusal of charge-sheet indicates that the submissions of the learned APP are supported by the documents

collected in investigation. Apart from possession of Ganja the charge-sheet is also for criminal conspiracy, name of this accused is also in reservation chart along with other accused for travelling from Visakhapatnam to New Delhi. There is also apparently electronic evidence collected indicating presence of this accused with co-accused. In such circumstances satisfaction cannot be recorded that there are no reasonable grounds to convict this accused as is necessary to avoid embargo put by Section 37 of the NDPS Act. Further this accused was absconding in another crime and therefore, he is also a flight risk. As such, I pass the following order.

ORDER

Application is hereby rejected.

Date : 08/02/2023

(P.Y.Ladekar)
Special Judge (NDPS
Court) and A.S.J.-4, Nagpur