

(2021) 04 KAR CK 0009
In the Karnataka High Court
Case No : Criminal Petition No. 2713 Of 2021

Akshay & Others

APPELLANT

Vs

State Of K.T.J. Nagar Police Davanagere

RESPONDENT

Date of Decision : 17-04-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 20(B)(ii)(b)

Citation : (2021) 04 KAR CK 0009

Hon'ble Judges : K. Natarajan, J

Bench : Single Bench

Advocate : Jayaprakash K.N, Rashmi Jadhav

Final Decision : Allowed

Judgement

K.Natarajan, J

1. This petition is filed by the petitioner Nos.1 and 2-accused Nos.3 and 4 under Section 439 of Cr.P.C., for granting regular bail in Crime No.30/2021

registered by KTJ Nagar Police Station for the offences punishable under Sections 20(B)(ii)(b) of The Narcotic Drugs and Psychotropic Substances

Act, 1985 (for short N.D.P.S. Act).

2. Heard the arguments of learned counsel for the petitioners and learned High Court Government Pleader for the respondent - State.

3. The case of the prosecution is that the complainant - Abdul Khader Zilani, PSI Crime KTJ Nagar Police Station has filed the suo-motu complaint

alleging that on 5.3.2021 at about 2.55 p.m., he had received credible information that within the compound of KEB, Hadadi Road, some persons were

selling ganja. After securing Panchas and Gazetted Officer, they apprehended four persons and on enquiry, they came to know the names and

address of those four persons as accused Nos.1 to 4. On personal search in the presence of the Gazetted Officer, they found ganja in the possession of accused persons and seized 22 grams of ganja and Rs.500/- from accused No.1, 23 grams of ganja and Rs.500/- from accused No.2 and 21 grams of ganja and Rs.500/- from accused No.3 and 21 grams of ganja and Rs.500/- from accused No.4. Totally, they have seized 87 grams of ganja and an amount of Rs.2,000/- from accused Nos.1 to 4. They also seized the Bajaj Pulsar Bike and Honda Activa Scooter which were used for commission of offence. As per the saying of accused No.2 that he would show and produce the ganja which was kept in his house, the complainant and his team along with Gazetted Officer visited the house of accused No.2 and seized 1 kg 40 grams of ganja. After completion of seizure formalities, the accused persons were arrested and remanded to the judicial custody. Accused Nos.3 and 4 approached the Sessions Court for granting bail, which came to be rejected. Hence, they are before this Court.

4. Learned counsel for the petitioners has contended that the petitioners are innocent of the alleged offences and has been falsely implicated in the case. The police arrested these petitioners without registering the FIR by violating the mandatory provisions. Accused Nos.3 and 4 were in possession of 21 grams of ganja each which is a small quantity. They are ready to abide by the conditions that may be imposed by this Court. Hence, prayed for granting bail.

5. Per contra, learned High Court Government Pleader seriously objected the bail petition and prayed for rejecting the bail petition.

6. Upon hearing the arguments and on perusal of the records, admittedly the Police apprehended accused Nos.1 to 4 on the spot. These petitioners- accused Nos.3 and 4 were in possession of 21 grams of ganja each. The Police have also seized two wheelers which were used for the commission of offence. It is also revealed that the Police visited the house of accused No.2 and seized more than 1 kg of ganja. Totally, the Police have seized 1 kg 127 grams of ganja and registered suo motu case. On perusal of the records, the quantity of ganja seized from these petitioners were only 21 grams each. Accused No.2 is having more than 1 kg of ganja which is not a small quantity. The punishment for the said offence is one year. Though the investigation is completed but all the accused persons were arrested by the

Police. Therefore, without expressing any opinion regarding the merits of the case, by imposing certain conditions, if bail is granted, no prejudice would be caused to the prosecution case. Hence, I pass the following

ORDER

Accordingly, criminal petition is allowed.

The trial Court is directed to release petitioner Nos.1 and 2-accused Nos.3 and 4 on bail in Crime No.30/2021 registered by KTJ Nagar Police Station

for the offences punishable under Sections 20(B)(ii)(b) of the N.D.P.S. Act, subject to the following conditions

(i) Petitioners shall execute a personal bond for a sum of Rs.1,00,000/-(Rupees One Lakh only) each with two sureties for the likesum to the satisfaction of the trial Court;

(ii) Petitioners shall not indulge in similar offences strictly;

(iii) Petitioners shall not tamper with the prosecution witnesses directly/indirectly;

(iv) Petitioners shall not leave the jurisdiction without prior permission of the trial Court;

(v) Petitioners shall appear before the Investigating Officer once in 15 days on every 2nd and 16th of the Calendar month between 10.00

a.m. and 4.00 p.m., for a period of six months till filing of the charge-sheet whichever is earlier.