

(2024) 08 KAR CK 0019
In the Karnataka High Court
Case No : Criminal Petition No. 5488 Of 2024

Hassan Sadiq @ Blade Sadiq

APPELLANT

Vs

State Of Karnataka

RESPONDENT

Date of Decision : 14-08-2024

Acts Referred:

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 8(c), 21, 21(c), 37, 50

Citation : (2024) 08 KAR CK 0019

Hon'ble Judges : S Rachaiah, J

Bench : Single Bench

Advocate : Lethif B, Waheed M M

Final Decision : Dismissed

Judgement

S Rachaiah, J

CAV ORDER

1. Heard Shri Lethif.B., learned counsel for the petitioner and Smt. Waheed M.M., learned High Court Government Pleader for the respondent - State.

2. The petitioner, who is arraigned as accused in Crime No.66/2023 of the respondent – Police, is before this Court seeking regular bail, for the offences punishable under Sections 8(c), 21, 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “NDPS Act”).

Brief facts of the case are as under:

3. It is the case of the prosecution that the Sub-Inspector of jurisdictional police received credible information from his known sources that a person traveling in a Maruti 800 car was carrying drugs namely MDMA. The said car was going from Bengaluru towards Melkar – Mudipu. On receiving the said information and after obtaining permission from the higher officials and also after securing the panchas, the complainant went near Goli cross, Mudipu at about 09.45 a.m. and

was waiting there by putting barricade. The complainant noticed that the car came near the said barricade around 10.15 a.m. The car was stopped by the staff and the accused / petitioner tried to escape from their clutches, however, he was apprehended.

4. The MDMA was seized from his pocket and it weighed 50 grams, thereafter, a case came to be registered against the petitioner in Crime No.66/2023 for the offences stated supra. The jurisdictional police after conducting investigation, submitted the charge sheet.

5. It is the submission of the learned counsel for the petitioner that the petitioner is innocent of the alleged offences. The procedure contemplated under the NDPS Act for the search and seizure has not been followed. Though it is alleged that 50 grams of MDMA was seized, till today no FSL report has been produced.

6. It is further submitted that the said MDMA stated to have been stored in a zip lock cover, the weight of the same has not been deducted while measuring the said drug. The authority by whom the said search was conducted, has not followed the procedure contemplated under Section 50 of the NDPS Act which is mandatory.

7. It is further submitted that the petitioner is innocent of the alleged offences and he is a resident of Bantwala Taluk and he is the earning member of the family. Therefore, he may be enlarged on bail by imposing conditions. Making such submissions, learned counsel for the petitioner prays to allow the petition.

8. Per contra, learned High Court Government Pleader (for short 'HCGP') for the respondent - State vehemently opposed the bail petition and submitted that the seized MDMA weighed 50 grams. It is a commercial quantity. As per Section 37 of the NDPS Act, the Courts ordinarily do not interfere in such cases in order to regulate the offences and also to protect the youths of the nation.

9. It is further submitted that the petitioner herein was caught red-handed and the complainant and his staff after following the procedure contemplated under the NDPS Act, arrested the accused and seized the contraband. Therefore, it is not appropriate to grant him bail. Making such submissions, the learned HCGP prays to dismiss the petition.

10. Having heard the learned counsel for the respective parties and also perused the documents on record, it appears from the record that the petitioner herein has been caught red-handed while he was transporting the contraband with him. Admittedly, the said contraband weighs 50 grams which is considered a commercial quantity. Having regard to the interest of the nation and also the youths, it is appropriate to reject the bail petition, without adverting to the merits of the case.

11. Hence, I proceed to pass the following:

ORDER

The Criminal Petition is dismissed.