

IN THE COURT OF I ADDITIONAL DISTRICT & SESSIONS JUDGE – SPECIAL
JUDGE FOR TRIAL OF OFFENCES UNDER NDPS ACT: VISAKHAPATNAM

Present: **Sri. M.Venkata Ramana,**
I Additional District & Sessions Judge-cum-
Special Judge for trial of offences Under NDPS Act, Visakhapatnam

Wednesday, the 29th day of July, 2026

CRL.M.P.No.1771/2026
in Crime No.61/2026 of Golugonda Police Station

Between:

1. Kada Santhosh Kumar, S/o Musalayya Late, Age 19 years, R/o R B Kothuru Village, Peddapuram Mandalam, East Godavari District. (Now in Kakinada District)

.....petitioner/A6

And:

The State rep. by SHO, Golugonda Police Station

...Respondent/Complainant

This petition came before me on 29-07-2026 for final hearing in the presence of S/s. K.Siva, Ch.V.Narayana Rao, Advocates for petitioner/A6 and Sri. S.Ram Murthy Naidu, Incharge Additional Public Prosecutor Gr.I for Respondent/Complainant and the matter having stood over for consideration till this day, this Court made the following:

ORDER

1. This bail application is filed under section 483 of B.N.S.S. on behalf of A6 who was remanded to judicial custody on 14-07-2026 for the offence punishable under section 20(b)(ii)(C), 25 r/w 8(C) of NDPS Act.
2. As per the case of prosecution, on 14-07-2026 this petitioner and four other accused were caught red handed while they were possessing 02 Kgs of liquid ganja / hash oil / weed Oil and 02 Kgs of dry ganja. As such, the liquid ganja and dry ganja were seized from their possession and they were arrested.
3. Heard the learned Counsel for petitioner. It is submitted that petitioner is innocent person and he has not committed any offence as alleged by the prosecution. It is further submitted that petitioner is falsely implicated by Police in

this case.

4. Learned Incharge Additional Public Prosecutor Gr.I vehemently opposed the petition. It is submitted that investigation is still pending and 02 Kgs of liquid ganja is commercial quantity.

5. Perused the entire material on record, consisting of contents of the petitioner and counter. 02 Kgs of liquid ganja is very huge, exorbitant, staggering and outrageous commercial quantity. After considering the material on record and after taking the arguments of both sides into consideration, I am of the view that there is no sufficient force in contention of counsel for petitioner. There is sufficient prima facie material appearing against the petitioner. As such, I do not find any sufficient reason to believe that petitioner has not committed this offence and the he is not likely to commit any further offence while on bail. As already mentioned supra, as per the case of prosecution, this petitioner and other accused were caught red handed while they were possessing the liquid ganja

7. In ***State of Punjab Vs. Sukhwinder Singh @ Gora (Crl. Appeal No . of 2026 (Arising out of SLP (Crl.) No.5020 of 2026) Dt.24-04-2026***, the Hon'ble Apex Court held in Para No.9 "9. It is well-settled that in matters involving recovery of contraband in commercial quantity, the twin conditions under [Section 37\(1\)\(b\)\(ii\)](#) of the NDPS Act are mandatory and entail no relaxation merely on the ground that the accused has undergone prolonged incarceration during the pendency of trial. The provision casts upon the Court a duty to record, before enlarging an accused on bail, its satisfaction on two cumulative conditions, first, that there exist reasonable grounds for believing that the accused is not guilty of the offence charged; and second, that he is not likely to commit any offence while on bail. The recording of such 6 Criminal Appeal No.1700 of 2026 @ SLP (Crl.) No.3326 of 2026 dated 01.04.2026 satisfaction is not a mere formality but a mandatory pre-condition, the non-observance of which vitiates the grant of bail. This Court, in Kashif (supra), has held in no uncertain terms that the recording of satisfaction on the twin conditions under [Section 37](#) is mandatory and not merely directory, and that an order granting bail without such recorded satisfaction stands vitiated and cannot be sustained. The same view stands reiterated in Lalrintluanga Sailo (supra)".

8. In ***State of Kerala Vs. Rajesh (Crl. Appeal No (S).154-157 of 2020 (Arising out of SLP (Crl.) No (s). 7309-7312 of 2019)***, the Hon'ble Apex Court held in Paras 18 to 21 that

"The jurisdiction of the Court to grant bail is circumscribed by the provisions of

[Section 37](#) of the NDPS Act. It can be granted in case there are reasonable grounds for believing that accused is not guilty of such offence, and that he is not likely to commit any offence while on bail. It is the mandate of the legislature which is required to be followed. At this juncture, a reference to [Section 37](#) of the Act is apposite. That provision makes the offences under the Act cognizable and nonbailable. It reads thus:

“37. Offences to be cognizable and nonbailable.—(1) Notwithstanding anything contained in the [Code of Criminal Procedure](#), 1973 (2 of 1974),—
 (a) every offence punishable under this Act shall be cognizable;
 (b) no person accused of an offence punishable for [offences under [section 19](#) or [section 24](#) or [section 27A](#) and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of subsection (1) are in addition to the limitations under the [Code of Criminal Procedure](#), 1973 (2 of 1974), or any other law for the time being in force on granting of bail.” (emphasis supplied) 19. This Court has laid down broad parameters to be followed while considering the application for bail moved by the accused involved in offences under [NDPS Act](#). In [Union of India Vs. Ram Samujh and Ors.](#) 1999(9) SCC 429, it has been elaborated as under:

“7. It is to be borne in mind that the aforesaid legislative mandate is required to be adhered to and followed. It should be borne in mind that in a murder case, the accused commits murder of one or two persons, while those persons who are dealing in narcotic drugs are instrumental in causing death or in inflicting deathblow to a number of innocent young victims, who are vulnerable; it causes deleterious effects and a deadly impact on the society; they are a hazard to the society; even if they are released temporarily, in all probability, they would continue their nefarious activities of trafficking and/or dealing in intoxicants clandestinely. Reason may be large stake and illegal profit involved. This Court, dealing with the contention with regard to punishment under the [NDPS Act](#), has succinctly observed about the adverse effect of such activities in [Durand Didier v. Chief Secy., Union Territory of Goa](#) [(1990) 1 SCC 95] as under:

24. With deep concern, we may point out that the organised activities of the underworld and the clandestine smuggling of narcotic drugs and psychotropic substances into this country and illegal trafficking in such drugs and substances have led to drug addiction among a sizeable section of the public, particularly the adolescents and students of both sexes and the menace has assumed serious and alarming proportions in the recent years. Therefore, in order to effectively control and eradicate this proliferating and booming devastating menace, causing deleterious effects and deadly impact on the society as a whole, Parliament in its wisdom, has made effective provisions by introducing this Act 81 of 1985 specifying mandatory minimum imprisonment and fine.

8. To check the menace of dangerous drugs flooding the market, Parliament has provided that the person accused of offences under the [NDPS Act](#) should not be released on bail during trial unless the mandatory conditions provided in [Section 37](#), namely,

(i) there are reasonable grounds for believing that the accused is not guilty of such offence; and

(ii) that he is not likely to commit any offence while on bail are satisfied. The High Court has not given any justifiable reason for not abiding by the aforesaid mandate while ordering the release of the respondent accused on bail. Instead of attempting to take a holistic view of the harmful socioeconomic consequences and health hazards which would accompany trafficking illegally in dangerous drugs, the court should implement the law in the spirit with which Parliament, after due deliberation, has amended.”

20. The scheme of [Section 37](#) reveals that the exercise of power to grant bail is not only subject to the limitations contained under [Section 439](#) of the CrPC, but is also subject to the limitation placed by [Section 37](#) which commences with nonobstante clause. The operative part of the said section is in the negative form prescribing the enlargement of bail to any person accused of commission of an offence under the Act, unless twin conditions are satisfied. The first condition is that the prosecution must be given an opportunity to oppose the application; and the second, is that the Court must be satisfied that there are reasonable grounds for believing that he is not guilty of such offence. If either of these two conditions is not satisfied, the ban for granting bail operates.

21. The expression “reasonable grounds” means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence.

9. After careful and cautious scrutiny and examination of entire material on record and after taking gravity of offence, nature of the offence and quantity of liquid ganja into consideration and in view of the legal position laid down by the Hon’ble Apex Court in the above two referred cases, I am of the view that the petitioner cannot be released on bail at this stage. As such, I do not find any merits in the petition.

10. In the result, the petition is dismissed.

Dictated to Stenographer, transcribed and typed by him corrected and pronounced by me on this 29th day of July, 2026.

Sd/-XXXXXX
I Addl. District & Sessions Judge
Visakhapatnam