

**IN THE COURT OF THE I ADDITIONAL SESSIONS JUDGE,
EAST GODAVARI AT RAJAMAHENDRAVARAM**
PRESENT: SMT. **SUNITHA KONDABOLU**,
I Additional Sessions Judge, Rajamahendravaram.

Wednesday, this the 12th day of October, 2022.

CRL.M.P.No.1800/2022
(Crime No.24/2022 of Maredumilli Police Station)

Between:

Chunchu Mala Konda Rayudu, S/o Narasimham, Hindu, Aged 60 years, Resident of Maredumilli (V) and (M).

....Petitioner/A3

And

State SHO, Maredumilli P.S, rep. by Addl. Public Prosecutor, Rajahmundry.

....Respondent/Complainant

This petition is coming on this day before me for hearing in the presence of Sri D.T.Venkatkeswara Rao, Advocate for the petitioner/A3 and the learned Special Public Prosecutor for the respondent/complainant and the matter having stood over for consideration, this Court made the following:

ORDER

This petition is filed under Section 167(2) of Cr.P.C. in Crime No.24/2022 of Maredumilli P.S registered for the offence under Section 8(C) r/w Section 20(b)(ii)(C) of NDPS Act, 1985 seeking to enlarge the petitioner/A3. on statutory bail.

2. The case of the prosecution is that on 30.03.2022 at 4 PM near Maatuvani bride outskirts of Devrapalli Village, Maredumilli Mandal, A2 to A4 along with three Child in Conflict with Law were found transporting 30 Kgs of Ganja from interior forest area in Darakonda to Delhi with the active support of A1 in a Yellow colour Auto bearing No.TR No.AP05 YMT/R-2073. It is alleged that A1 who is absconding was involved in the transportation of Ganja. The contraband along with vehicle and other material was seized under a cover of mediators report. A2 to A4 were arrested on 30.03.2022 and they were sent to judicial custody on 31.03.2022.

3. Heard the learned counsel for the petitioner/A3 and the learned Special Public Prosecutor.

4. The counsel for the petitioner/A3 submitted that the petitioner has been in judicial custody since 31.03.2022 and the respondent/complainant not filed charge sheet so far even after the completion of statutory period of 180 days by 27.09.2022.

5. The learned in charge Special Public Prosecutor submitted that charge sheet is not filed.

6. Now the point for consideration is whether the petitioner/A3 is entitled to statutory bail under Section 167(2) Cr.P.C?

POINT:

7. It is found from the material on record that A3 along with A2 and A4 were found in possession and transportation of 30 Kgs of Ganja and they were arrested on 30.03.2022 and remanded to judicial custody on 31.03.2022 and stipulated period of 180 days to file charge sheet was completed by 27.09.2022.

8. It is settled law that the indefeasible right accrued to an accused in seeking mandatory bail under Section 167 (2) of Cr.P.C for the failure of the investigating agency to file charge sheet within the prescribed period, cannot be defeated or frustrated, as it would be violative of article 21 of the Constitution of India, in as much as, it would tantamount to keeping the accused in prolonged detention leading to deprivation of his right to liberty. In **Uday Mohan Lal Acharya Vs.State Of Maharashtra, {2001 (5) SCC 453}** the Hon'ble Supreme Court held that frustrating the indefeasible right of the accused to be enlarged on mandatory bail is impermissible.

9. The Hon'ble Apex Court in case of **M.Ravindran v. Directorate of Revenue Intelligence, 2020 SCC Online SC 367** while taking note of the provisions of NDPS Act which allow the investigating agency 180 days to complete the probe asserted that the prosecution cannot be allowed to take advantage of its own default of not filing the investigation report or complaint against the accused within the stipulated period.

10. In the light of settled law referred above, it is seen from the record that charge sheet was not filed even after the completion of statutory period of 180 days by 27.09.2022. The learned Special Public Prosecutor also conceded the above facts submitting that neither charge sheet nor extension petition is filed. In the above circumstances, the petitioner/A3, who is in judicial custody since 31.03.2022 on completion of statutory period of 180 days by 27.09.2022 is entitled to indefeasible right of statutory bail by invoking Section 167(2) Cr.P.C. Thus point is answered.

11. In the result, the petition is allowed and the petitioner/A3 has been granted statutory bail on his executing a personal bond of Rs.25,000/- with two sureties for a like sum each to the satisfaction of this Court with the following conditions.

(1) The petitioner/A3 shall report before S.H.O. Maredumilli P.S on the 1st Sunday of every month between 10.00 A.M and 02.00 PM till filing of charge sheet.

(2) The petitioner/A3 shall not commit any offence while on bail.

Typed to my dictation directly by the Stenographer Gr-II, corrected and pronounced by me in open court, this the 12th day of October, 2022.

Sd/Smt.K.Sunitha
I Additional Sessions Judge,
Rajamahendravaram.

Copy to:

- 1.The S.H.O. Maredumilli P.S.
- 2.The Counsel for the petitioner/A3