



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3396]

THURSDAY, THE SEVENTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 2915/2026

Between:

1.MADAPANA SRINIVASA RAO, S/O LATE LINGA MURTHY, AGED 44 YEARS. DRIVER, HINDU, R/O H. NO. 6-102/B, RAMABHADRAPURAM COLONY, PISINIKADA VILLAGE, ANAKAPALLE MANDAL, ANAKAPALLI DISTRICT.

...PETITIONER/ACCUSED

AND

1.UNION OF INDIA, through Intelligence Officer, Narcotics Control Bureau, Hyderabad the Sub Zone represented by its Special Public Prosecutor.

...RESPONDENT/COMPLAINANT

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court pleased to take the above bona-fide facts into the consideration in view of the changed circumstances and release the applicant on bail on the terms and conditions as the court may deem fit and proper in the interest of justice and equity. Otherwise he will be put to irreparable loss and hardship.

Counsel for the Petitioner/accused:

1.YARLAGADDA THARAKA RAMAN RAO

Counsel for the Respondent/complainant:

1.SURESH KUMAR ROUTHU (SPL PP FOR NCB)

2.PUBLIC PROSECUTOR

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA**CRIMINAL PETITION NO: 2915 OF 2026****ORDER:**

This Criminal Petition has been filed by the petitioner herein/Accused No.2, seeking regular bail in N.S.C.No.534 of 2023 on the file of learned I Additional District and Sessions Judge-cum-Special Judge for Trial of Offences under NDPS Act, 1985 at Visakhapatnam in Cr.No.48/1/3/2023 dated 08.04.2023 for the offences punishable under Sections 8(c) read with 20(b)(ii)(c), 25, 28 and 29 of the Narcotic Drugs and Psychotropic Substances Act (for short “NDPS Act”).

2. The case of the prosecution is that, on 08.04.2023 at about 09:00 AM, the complainant received specific information to the effect that one person by name Gummala Seshu (Driver) was trafficking a substantial quantity of ganja to Karur, Tamil Nadu. It is the further case of the prosecution that A1 was transporting the said ganja in an Ashok Leyland truck bearing Registration No. AP 16 TA 7866, concealed in plastic gunny bags along with an iron consignment. Based on the said information, the truck was tracked, A1 was apprehended, and 1316 kgs of ganja was seized from his possession.

3. Heard Sri Yarlagadda Tharaka Raman Rao, learned counsel for the petitioner/A2 and Sri Suresh Kumar Routhu, learned Special Public Prosecutor for NCB.

4. Learned counsel for the petitioner submits that the petitioner has no manner of connection with the alleged offence and that, though the crime vehicle stands registered in his name, the same was sold to the wife of A1 on 13.02.2023. However, since the vehicle was under hypothecation/finance, a mutual understanding was entered into between the parties whereby A2 agreed to pay the monthly EMIs towards the vehicle loan. It is further submitted that no contraband was seized from the possession of the petitioner and that, on 10.04.2023, i.e., on the very next day after the arrest of A1, the investigating agency seized from the house of A1, at the instance of the wife of A1, a document evidencing the said mutual understanding between the petitioner and A1 regarding the vehicle transaction. Learned counsel further submits that the charge sheet has already been filed showing the petitioner as absconding, pursuant to which a Non-Bailable Warrant was issued against him on 01.02.2025. It is contended that the call records between the petitioner, A1, and the wife of A1 pertain only to the payment of EMIs in respect of the vehicle and do not indicate any involvement in the alleged transportation of ganja. Learned counsel further submits that the wife of A1 is the ostensible owner and person in possession of the vehicle pursuant to the mutual understanding between the parties and that the petitioner had no knowledge whatsoever about the alleged transportation of ganja in the said vehicle. It is also submitted that the petitioner is suffering from health issues and has been referred to K.G. Hospital, Visakhapatnam, for medical

treatment, and that he has been in judicial custody since 05.12.2025 and is ready and willing to furnish adequate sureties to the satisfaction of this Court.

5. Learned Special Public Prosecutor for NCB vehemently opposed the petition and submitted that the alleged mutual understanding relied upon by the petitioner was created only for the purpose of the case. It is submitted that, during the search of the house of A1, a sale deed relating to the vehicle was recovered. Though the document bears the date 13.02.2023, the signatures of the parties are dated 10.04.2023, i.e., two days after the seizure of the vehicle on 08.04.2023, which creates doubt about the genuineness of the transaction. At the time of seizure, the vehicle was still registered in the name of the petitioner.

6. Learned Special Public Prosecutor further submitted that the petitioner failed to appear before the authorities in response to the notice issued under Section 67 of the NDPS Act and did not cooperate with the investigation. It is further submitted that, even after the alleged transfer of the vehicle, the petitioner continued to pay the EMIs online from his own bank account and, as per the charge sheet, three EMI payments were made by him on 29.08.2023. Pursuant to the orders of the Court, the petitioner was examined in Central Prison, Visakhapatnam, on 27.02.2026, during which he stated that the vehicle was handed over to A1 only on the condition that A1 would pay the remaining EMIs and that no cash amount was paid. However, this statement is contrary to the earlier statement of A2 recorded before NCB on 23.06.2023, wherein A2 stated that he received Rs.2,00,000/- in cash in addition to the

agreement regarding payment of EMIs. These contradictions create a strong suspicion about the petitioner's involvement in the offence. It is further submitted that the petitioner ignored the notices issued by the investigating agency and did not cooperate with the investigation, due to which the proceedings were delayed. Learned Special Public Prosecutor also submitted that the call data records between A1 and A2 show the petitioner's involvement in the matter. It is lastly contended that the case involves seizure of a huge commercial quantity of ganja, i.e., 1316 kgs, and therefore the statutory restrictions under the NDPS Act for grant of bail are applicable.

7. Considering the submissions made by both sides and upon perusal of the material placed on record, it is a case involving a huge commercial quantity of contraband, i.e., 1316 kgs of ganja, which was seized from the vehicle, admittedly, standing in the name of the petitioner at the relevant point of time. Though the contention of the petitioner is that the vehicle was sold to the wife of A1 prior to the incident, the alleged sale transaction and mutual understanding are matters to be established during the course of trial. This Court is of the view that, prima facie, the material placed by the prosecution, including the discrepancies in the alleged sale document, the continued payment of EMIs by the petitioner even after the alleged transfer, the call data records, and the failure of the petitioner to cooperate with the investigation, create reasonable grounds to suspect his involvement in the offence. Further, the offence involves commercial quantity and, therefore, the statutory restrictions contained under Section 37 of the NDPS Act are attracted.

8. The Hon'ble Apex Court in ***State of Kerala v. Rajesh***¹ at Paragraph Nos.8, 19, 20 and 21 held as under:

8. To curb the spread of dangerous drugs, Parliament has mandated that an accused under the NDPS Act cannot be granted bail unless there are reasonable grounds to believe he is not guilty and will not commit offences while on bail. The High Court failed to justify ignoring these mandatory conditions when releasing the accused. Instead of considering the grave socio-economic and health consequences of illegal drug trafficking, the court ought to have enforced the law in the spirit intended by Parliament.

19. Section 37 imposes additional, overriding restrictions on the grant of bail, beyond those under Section 439 CrPC, through its non obstante clause. It prohibits bail unless two mandatory conditions are met: the prosecution is given an opportunity to oppose, and the court is satisfied that there are reasonable grounds to believe the accused is not guilty. If either condition is not fulfilled, the bar against granting bail applies.

20. The term "reasonable grounds" requires more than mere prima facie satisfaction; it demands substantial, probable causes showing the accused is not guilty. Such belief must arise from facts and circumstances sufficient to justify that conclusion. In the present case, the High Court overlooked the strict object of Section 37, and its liberal approach to bail under the NDPS Act was unwarranted.

21. The learned Single Judge failed to record the mandatory finding required under Section 37 of the NDPS Act, which is a sine qua non for granting bail in such cases.

9. In view of the aforesaid facts and circumstances of the case, the request of the petitioner cannot be considered at this juncture inasmuch as there are no reasonable grounds to believe that the petitioner has not indulged in the commission of the alleged offence and if the petitioner is released on bail he would not commit similar offence in future. There are no merits in the Criminal Petition for grant of bail to the petitioner. Hence, the Criminal Petition is liable to be dismissed.

10. Accordingly, the Criminal Petition is dismissed.

¹ (2020) 12 SCC 122

As a sequel thereto, the miscellaneous applications, if any, pending in this Criminal Petition shall stand closed.

DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

Date: 07.05.2026.

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