

APHC010204982026



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

[3396]

WEDNESDAY, THE TWENTY NINTH DAY OF APRIL  
TWO THOUSAND AND TWENTY SIX

**PRESENT**

**THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA**

**CRIMINAL PETITION NO: 3094/2026**

**Between:**

1. CHELLURI NAGESH BABU, S/O. KRISHNA, AGED 40 YEARS, D.NO.4-107, DAKAMARRI VILLAGE, BHIMILI MANDAL, VISAKHAPATNAM DISTRICT, AADHAAR NO.3776 1019 2011.

**...PETITIONER/ACCUSED**

**AND**

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI, NELAPADU, GUNTUR DISTRICT.

**...RESPONDENT/COMPLAINANT**

**Counsel for the Petitioner/accused:**

1. SINGURU SAI KRISHNA

**Counsel for the Respondent/complainant:**

1. PUBLIC PROSECUTOR

**The Court made the following:**

**THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA****CRIMINAL PETITION NO: 3094 OF 2026****ORDER:-**

The Criminal Petition has been filed under Sections 437 and 439 of the Code of Criminal Procedure, 1973 (for brevity 'the Cr.P.C.)/ Sections 480 and 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity 'the BNSS'), seeking to enlarge the Petitioner/Accused No.8 on bail in Crime.No.156 of 2025 of Kirlampudi Police Station, Kakinada District, registered against the Petitioners herein for the offences punishable under Section 8(c) read with Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity 'the NDPS Act').

2. Heard the learned counsel for the petitioner and the learned Assistant Public Prosecutor representing the respondent/State. Perused the record.
3. The case of the prosecution is that, the petitioner and other accused were transporting 351.180 kgs of ganja on 23.09.2025 and the police arrested the accused and seized the said contraband.
4. The learned counsel for the petitioner would submit that the petitioner is innocent, he did not commit the offence, he was falsely implicated in this case, he never indulged in transportation of contraband, the police did not follow mandatory provisions of NDPS Act, investigation in this case is completed

except receipt of FSL report and filing of charge sheet and no ganja is seized from his possession, he has fixed abode and ready to furnish surety and ready to abide by any condition imposed by the Court.

5. The learned Assistant Public Prosecutor while opposing bail contended that, investigation is under progress. The seized contraband in the case is 383.82 kgs, which is huge commercial quantity. If the petitioner is enlarged on bail, it is very difficult to secure his presence and also the statutory period is not over and urged to dismiss the criminal petition.

6. The learned counsel for the petitioner relied upon the Judgment of the Hon'ble Supreme Court in ***Narcotics Control Bureau vs. Mohit Aggarwal***<sup>1</sup> in paragraph No.16 which is usefully extracted hereunder:

*“16. Coming back to the facts of the instant cse, the learned Single Judge of the High Court cannot be faulted for holding that the appellant NCB could not have relied on the confessional statements of the respondent and the other co-accused recorded under Section 67 of the NDPS Act in the light of the law laid down by a three-Judge Bench of this Court in Tofan Singh vs. State of T.N., (2021) 4 SCC 1: (2021) 2 SCC (Cri) 246, wherein as per the majority decision, a confessional statement recorded under Section 67 of the NDPS Act has been held to be inadmissible in the trial of an offence under the NDPS Act. Therefore, the admissions made by the respondent while in custody to the effect that he had illegally traded in narcotic drugs, will have to be kept aside.”*

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<sup>1</sup> (2022) 18 Supreme Court Cases 374

7. Considering the submissions made and upon perusal of the material available on record, this Court is of the view that the judgment of the Hon'ble Supreme Court in ***Narcotics Control Bureau vs. Mohit Aggarwal***, relied upon by the learned counsel for the petitioner, does not come to the petitioner's aid. It is evident that the petitioner/Accused No.8 was arrested on the confession of accused No.1. The learned Assistant Public Prosecutor would submit that there is clear bank transaction between the accused No.1 and the petitioner/accused No.8 and the petitioner received sum of Rs.55,000/- from the accused No.1. The ganja involved in this crime is 383.82 kgs. No doubt the seized ganja is a huge commercial quantity. Once the commercial quantity is involved, Section 37 of NDPS Act comes into play. The conditions mentioned under Section 37(b)(ii) of NDPS Act are to be satisfied for grant of bail to the accused in the typical cases. The learned Assistant Public Prosecutor vehemently opposed the grant of bail. This Court is also of the view that there is no material to presume that the petitioner has not committed the offence alleged, and there is a likelihood that, if enlarged on bail, he may commit a similar offence in future. The investigation is at a progressive stage and some more witnesses are yet to be examined. The inventory has also not completed. The petitioner was arrested on 20.02.2026. They have been in judicial custody for the past 69 days.

8. Further, statutory period of judicial remand for 180 days is not completed. In this connection, it is relevant to refer the following decisions of the Hon'ble Apex Court.

9. In ***Union of India v. Ram Samujh***<sup>2</sup> the Hon'ble Supreme Court at Paragraph No.7 held as under:

*"In murder cases the harm is limited to one or two individuals, whereas narcotics offences destroy numerous vulnerable lives and have a deadly impact on society; offenders involved in drug trafficking pose a continuous hazard and are likely to persist in their illicit activities if released, and therefore strict adherence to the legislative mandate is essential."*

10. In ***Durand Didier v. State (UT of Goa)***<sup>3</sup> the Hon'ble Apex Court at Paragraph No.24 held as under:

*"The organised underworld activities and clandestine trafficking of narcotic drugs have caused widespread addiction, especially among adolescents and students, turning the menace into a serious and alarming social problem. To combat this devastating threat with its deadly impact on society, Parliament recognised the need for strong measures. Consequently, it enacted Act 81 of 1985, introducing strict provisions with mandatory minimum imprisonment and fines."*

11. The Hon'ble Apex Court in ***State of Kerala v. Rajesh***<sup>4</sup> 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*

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<sup>2</sup> (1999) 9 SCC 429

<sup>3</sup> (1990) 1 SCC 95

<sup>4</sup> (2020) 12 SCC 122

*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.*

12. In view of the law laid down by the Hon'ble Apex Court in **Ram Samujh, Durand Didier** and **Rajesh**, the request of the petitioners cannot be considered at this juncture inasmuch as there are no reasonable grounds to believe that the petitioners have not indulged in the commission of the alleged offence. There are no merits in the Criminal Petition for grant of bail to the petitioners. Hence, the Criminal Petition is liable to be dismissed.

13. In the result, the Criminal Petition is dismissed.

As a sequel, Miscellaneous petitions, if any pending, shall stand closed.

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**DR.VENKATA JYOTHIRMAI PRATAPA, J**

Date: 29.04.2026

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THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

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29.04.2026

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