



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

[3396]

**TUESDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 3353/2026

Between:

1.KOLA VINODH KUMAR, S/O. NIRANJAN KUMAR, AGED ABOUT 31 YEARS, R/O. D. NO.6-125-6, KOTHAPETA, DHONETOWN,NANDYAL DISTRICT, PRESENTLY RESIDING ATFLAT NO.A-112, HAPPY HOME, OLD ITIJUNCTION, KANCHARAPALEM, VISAKHAPATNAM,VISAKHAPATNAM DISTRICT.

...PETITIONER/ACCUSED

AND

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

...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 may be pleased to enlarge the Petitioner/Accused No.5 on bail pending disposal of Crime No. 298/2025 of Kancharapalem P.S., Visakhapatnam District

Counsel for the Petitioner/accused:

1.GOLLAPALLI MAHESWARA RAO

Counsel for the Respondent/complainant:

1.PUBLIC PROSECUTOR

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA**CRIMINAL PETITION NO: 3353/2026****ORDER:**

This Criminal Petition, under Sections 480 and 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed by the petitioner/Accused No.5, seeking regular bail, in Crime No. 298 of 2025 of Kancharapalem P.S., Visakhapatnam District, registered for the offence punishable under Sections 20(b)(ii)(C), 25 r/w Section 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. As per the case of the prosecution, on 16.08.2025, the petitioner supplied 21.3 Kgs of Ganja to the other accused. On that day, A1 was caught redhanded while he was in possession of the said ganja.

3. Heard Mr.Gollapalli Maheswara Rao, learned counsel for the petitioner and Mrs.K. Priyanka Lakshmi, learned Assistant Public Prosecutor appearing on behalf of the State.

4. Learned counsel for the petitioner would submit that the petitioner is an innocent person and that he has not committed any offence as alleged by the prosecution. Learned counsel would further submit that the petitioner was falsely implicated in this case. No contraband was seized from the possession of the petitioner. The petitioner was arrayed as accused No.5, basing on the confession statement of the co-accused only. The petitioner has been in judicial custody since 01.03.2026. Learned counsel for the petitioner would

submit that the petitioner is ready to furnish sureties to the satisfaction of the Court and finally prays to grant bail to the petitioner.

5. Learned Assistant Public Prosecutor vehemently opposed the petition and submitted that the contraband involved in the present case is a commercial quantity of 21.3 kilograms of Ganja and that the petitioner has been in judicial custody since 01.03.2026. She would further submit that the investigation is still pending and the statutory period is also not completed. She would further submit that there are two other cases pending against the petitioner/Accused No.5 under the provisions of the NDPS Act. Learned Assistant Public Prosecutor finally prays for dismissal of the petition.

6. Considering the submissions and a fair look on the material placed before this Court, it is a case involving 21.3 Kgs of Ganja, which is a commercial quantity. In the light of the criminal antecedents pending against the petitioner/accused No.5 and as the investigation is still pending, this Court is not inclined to grant regular bail to the petitioner/Accused No.5 at this stage.

7. 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

¹ (2020) 12 SCC 122

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.

8. 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.

9. Accordingly, the Criminal Petition is dismissed.

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

DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

Date: 28.04.2026.

UPS

29

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 3353/2026

Dt.28.04.2026

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