

APHC010533072025



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

[3396]

WEDNESDAY, THE ELEVENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 10368/2025

Between:

1. BIJENDRA, S/O JAIVEER SINGH, AGED 46 YEARS, R/O LAKSHMANPURA VILLAGE, HAPUR DISTRICT, STATE OF UTTAR PRADESH.
2. FAJJIL, S/O MOHD. TOFIK, AGED 30 YEARS, R/O D.NO. 375, OLD SEEMPURI, SADHARA, NEW DELHI.

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, Rep. by its Public Prosecutor, High Court of Judicature of Andhra Pradesh at Amaravati.

...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 release the Petitioners/Accused. No. 4 & 5 on bail in Crime No. 190 of 2025, On the file of the Bhogapuram Police Station

Counsel for the Petitioner/accused(S):

1. ADAPA SUDHAKAR RAO

Counsel for the Respondent/complainant:

1. PUBLIC PROSECUTOR

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA**CRIMINAL PETITION NO: 10368 of 2025****ORDER:**

This Criminal Petition, under Sections 480 and 483 of the BNSS, has been filed by the petitioners herein/Accused Nos.4 and 5, seeking regular bail, in Cr.No.190 of 2025, on the file of the Bhogapuram Police Station, Vizianagaram District registered for the offences punishable under Sections 20(b)(ii)(C), 25 read with 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPSA').

2. Brief facts of the case are that, on 24.07.2025, on credible information, the SI of Police, Bhogapuram Police Station, Vizianagaram District secured the presence of mediators and conducted vehicle checking. While conducting the vehicle checking, the petitioners were caught while transporting 120.305 Kgs of Ganja in 47 packets. The Sub Inspector of police seized the contraband and the vehicles under the cover of mediators' report.

3. None represented on behalf of the petitioners/A.4 and A.5.

4. Learned Assistant Public Prosecutor submits that the quantity of contraband involved in present crime is 120.305 Kgs of Ganja, which is a commercial quantity. The A-4 and A-5 have been in judicial custody since 29.07.2025. She further submits that the statutory period of 180 days has been completed; however, the charge sheet has not been filed. No petition

seeking extension of time for completion of investigation has been filed or placed before this Court. Learned Assistant Public Prosecutor finally prays for dismissal of the petition in the light of the bar under Section 37 of NDPS Act.

5. 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.

6. In view of the aforesaid facts and circumstances of the case, the petitioner does not deserve for grant of regular bail at this stage. 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: 11.02.2026
KKV

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 10368 of 2025

Dt.11.02.2026

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