APHC010654372025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3521]**
(Special Original Jurisdiction)

FRIDAY,THE FIFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL REVISION CASE NO: 1387/2025

Between:

BATHI MANI KANTA BALA KRISHNA, S/O. CHINA RAJU, AGED ABOUT 22 YEARS R/O. BUTCHEMPETA VILLAGE, ROLUGUNTA MANDAL, ANAKAPALLI DISTRICT.

...PETITIONER

AND

THE STATE OF ANDHRA PRADESH, Rep by its Public Prosecutor, thru SHO Rolugunta Police Station, Visakhapatnam, High Court of AndhraPradesh at Amaravathi

...RESPONDENT

Counsel for the Petitioner:

K PRIDHVI RAJU

Counsel for the Respondent:

PUBLIC PROSECUTOR

The Court made the following:

ORDER:

The Criminal Revision Case has been filed challenging the order passed by the learned I Additional District and Sessions Judge-cum-Special Judge for Trial of Offences under the NDPS Act, Visakhapatnam, in Crl.M.P.No.1227 of 2025 in Cr.No.44/2025 of Rolugunta Police Station, Anakapalli District *vide* order dated 29.11.2025 extending the period of remand up to 250 days from the day the Petitioner/Accused No.11 was remanded to judicial custody for the first time.

2. Thoughtful consideration is bestowed on the arguments advanced by the learned Counsel for both sides. I have perused the entire record.

3. Now the point for consideration is:

> "*Whether the order in Crl.M.P.No.1227 of 2025 dated 29.11.2025, passed by the learned I Additional District & Sessions Judge-cum-Special Judge for Trial of Offences under NDPS Act, Visakhapatnam, is correct, legal, and proper with respect to its finding or judgment, and there are any material irregularities? And to what relief?"*

4. As seen from the record on 162th day of the judicial custody of the Petitioner, a remand extension petition was filed before the learned Trial Court. The impugned order doesn't reflect that at the time of extension of the remand the Petitioner was either produced physically or virtually.

5. The Hon'ble Apex Court in **Jigar @ Jimmy Pravinchandra Adatiya v. State of Gujarat**[1],at paragraph No.30 held as under:

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[1]2022 Supreme (SC) 973

> *"45. The logical and legal consequence of the grant of extension of time is the deprivation of the indefeasible right available to the accused to claim a default bail. If we accept the argument that the failure of the prosecution to produce the accused before the Court and to inform him that the application of extension is being considered by the Court is a mere procedural irregularity, it will negate the proviso added by sub-section (2) of Section 20 of the 2015 Act and that may amount to violation of rights conferred by Article 21 of the Constitution. The reason is the grant of the extension of time takes away the right of the accused to get default bail which is intrinsically connected with the fundamental rights guaranteed under Article 21 of the Constitution. The procedure contemplated by Article 21 of the Constitution which is required to be followed before the liberty of a person is taken away has to be a fair and reasonable procedure. In fact, procedural safeguards play an important role in protecting the liberty guaranteed by Article 21. The failure to procure the presence of the accused either physically or virtually before the Court and the failure to inform him that the application made by the Public Prosecutor for the extension of time is being considered, is not a mere procedural irregularity. It is gross illegality that violates the rights of the accused under Article 21"*

6. As per **Jigar** *supra*, failure to procure the presence of the Accused either physically or virtually before the Court and failure to inform him that the application made by the Public Prosecutor for the extension of time is being considered not a mere procedural irregularity, it is a gross illegality that violates the fundamental right of the Accused guaranteed under Article 21 of the Constitution of India.

7. In the instant case, the impugned order doesn't reflect that such procedural safeguard contemplated by **Jigar** *supra* was followed. Indeed, the learned Trial Court neither secured the presence of the Accused physically nor virtually nor informed the Petitioner that judicial remand was extended. Therefore, there is violation of Article 21 of the Constitution of India.

8. Be that as it may, even at the time of extension of the remand in any other case either by the Magistrate or by the Trial Court, they cannot mechanically pass extension order of remand. The remand extension has to

be informed to the Accused either by securing him physically or virtually. For the above reasons the Criminal Revision Case is required to be allowed, as there are merits.

9. In the result the Criminal Revision Case is allowed, the impugned order dated 29.11.2025 passed in Crl.M.P.No.1227 of 2025 in Cr.No.44 of 2025 of Rolugunta Police Station, Anakapalli District, on the file of the learned I Additional District and Sessions Judge-cum-Special Judge for Trial of Offences under the NDPS Act, Visakhapatnam, is set aside.

10. The Criminal Revision Case is allowed with the following conditions:

i. The Petitioner/Accused No.11 shall be enlarged on bail subject to him executing a bond for a sum of Rs.1,00,000/- (Rupees One Lakh Only) with two sureties for the like sum each to the satisfaction of the learned Additional Judicial First Class Magistrate, Narsipatnam.

ii. The Petitioner/Accused No.11 shall appear before the Station House Officer, Rolugunta Police Station, Anakapalli District on every Saturday in between 10:00 am and 05:00 pm, till cognizance is taken by the learned the Trial Court.

iii. The Petitioner/Accused No.11 shall not leave the limits of the State of Andhra Pradesh without prior permission from the Station House Officer concerned.

iv. The Petitioner/Accused No.11 shall not commit or indulge in commission of any offence in future.

v. The Petitioner/Accused No.11 shall cooperate with the investigating officer in further investigation of the case and shall make himself available for interrogation by the investigating officer as and when required.

vi. The Petitioner/Accused No.11 shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the court or to any police officer.

vii. The Petitioner/Accused No.11 shall surrender his passport, if any, to the investigating officer. If he claims that he does not have a passport, he shall submit an affidavit to that effect to the Investigating Officer.

11. With the above observations and directions, this Criminal Revision Case is allowed. No order as to costs.

As a sequel, interlocutory applications, if any pending, shall stand closed.

Dr. Y. LAKSHMANA RAO, J

Dated:05.12.2025
RSI

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THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL REVISION CASE NO: 1387 of 2025

Date: 05.12.2025
RSI