

**HIGH COURT OF JUDICATURE AT HYDERABAD  
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH  
TUESDAY, THE TWENTY FIRST DAY OF NOVEMBER, TWO THOUSAND AND  
SEVENTEEN**

: PRESENT :

**THE HONOURABLE DR JUSTICE SHAMEEM AKTHER**

CRLP .No. 10830 of 2017

Between:-

1.Devalam Krishna Singh, S/o. Laxman Singh. (A-1)

2.Sk. Shamsheer @ Shammu, S/o. Rahamathulla (A-2)

..... Petitioners/Accused Nos. 1 and 2

AND

The State of Andhra Pradesh, Rep. by Public Prosecutor,  
High Court of Judicature at Hyderabad, For the State of Telangana and the  
State of Andhra Pradesh.

.....Respondent/Complainant.

Petition filed under Sections 437 & 439 of Cr.P.C. praying that in the circumstances stated in the Grounds of Criminal Petition, the High Court may be pleased to direct the release the Petitioners on bail pending investigation, enquiry and trial in Crime No. 185 of 2017 of IV Town Police Station, Nellore District.

The petition coming on for hearing, upon perusing the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri T. Nagarjuna Reddy, Advocate for the Petitioners and the Addl. Public Prosecutor(AP) for the Sole Respondent-State, the Court made the following **ORDER :-**

**“This Criminal Petition is filed under Section 439 Cr.P.C. by the petitioners-A.1 and A.2 for grant of bail to them in Crime No.185 of 2017 of IV Town Police Station, Nellore, SPSR Nellore District, registered for the offences under Sections 3 and 4 of the Gaming Act, 2005, and Section 20(b)(ii)(C) r/w Section 8(c) of the Narcotics Psychotropic Substances Act, 1985 (NDPS Act).**

**2. Heard Sri T. Nirnanjan Reddy, learned senior counsel representing Sri T.Nagarjuna Reddy, learned counsel for the petitioners-A.1 and A.2, and learned Additional Public Prosecutor appearing for the respondent-State, apart from perusing the material available on record.**

**3. Learned senior counsel for the petitioners would submit that the petitioners are falsely implicated in this case; no ganja was seized from the possession of the petitioners; the petitioners were highhandedly arrested on 21.07.2017 on the allegation of organizing cricket betting and were not produced before the Magistrate concerned within the time stipulated; the police harassed the petitioners by shifting them from one police station to other, without disclosing their whereabouts; on this, the petitioners approached this Court and filed Habeas Corpus W.P. No.25379 of 2017 on 28.07.2017 to direct the police to release them from illegal custody; the writ petition was posted to 01.08.2017 for admission; thereafter, the police registered the case on 02.08.2017 and on 03.08.2017, the petitioners were produced before the Magistrate showing the date of arrest as 02.08.2017; thereafter, the police custody was granted for three days; the petitioners approached this Court for grant of bail in CrI.P. No.8543 of 2017 and the same was dismissed on 19.09.2017 on the ground that the ganja seized was a commercial quantity and the investigation was pending. The learned counsel for the petitioners would further submit that the petitioners were remanded to judicial custody on 02.08.2017; the investigation is completed; and prayed to grant bail to the petitioners. Learned senior counsel for the petitioners has relied on the decisions of the Hon’ble Supreme Court in Lt. Col. Prasad Shrikant Purohit v. State of Maharashtra<sup>1</sup> and Rakesh Kumar Paul v. State of**

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<sup>1</sup> 2017(3) ALT (CrI.) 271 (SC)

Assam<sup>2</sup>. Relying on these decisions, learned senior counsel would further contend that the Court granting bail should exercise its discretion in a judicious manner and not as a matter of course; though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken; there is a need to indicate in such orders reasons for *prima facie* concluding why bail was being granted particularly where the accused is charged of having committed a serious offence; any order devoid of such reasons would suffer from non-application of mind, it is also necessary for the Court granting bail to consider the other circumstances, such as, severity of punishment, reasonable apprehension of tampering with witnesses, *prima facie* satisfaction of the Court in support of the charge. He would further contend that 60 days of imprisonment has been completed; in the instant case, the punishment would not extend to ten years; and ultimately, prayed to allow the bail application.

4. On the other hand, learned Additional Public Prosecutor would contend that commercial quantity of ganja was seized from the possession of petitioners-A.1 and A.2 and they are not entitled for bail; their earlier bail applications were dismissed on 19.09.2017; and there are no change of circumstances. He has relied on the orders passed by this Court in CrI.P. No.3744 of 2017 dated 12.06.2017 and CrI.P. Nos.2052 and 2056 of 2017 dated 15.03.2017 to substantiate that the quantity of ganja seized in this case is a commercial quantity. Ultimately, prayed to dismiss the bail petition.

5. In view of the submissions made by both sides, the point for determination is, whether the request of the petitioners-A.1 and A.2 can be acceded to?

6. The prosecution case is that on 02.08.2017 at 7-30 p.m., the Circle Inspector of Police, Nellore, along with his staff and mediators surprised Shop No.1 of Mc-cleans Club Shopping Complex, Leelamahal Road, Nellore Town and arrested the petitioners along with A.3 to A.5 on the ground that they were organizing cricket betting in Nellore and Kavali Towns. The police recorded confessional statements of the petitioners and other accused, seized cash, cell phones, laptops, etc., used for organizing cricket betting under a cover of panchanama. 10.3 kgs and 10.2 kgs of ganja was seized from the cars belonging to the petitioners under a cover of panchanama. Thereafter, this crime is registered and investigated. The specific case of the petitioners is that these petitioners were arrested on 21.07.2017 on the allegations of organizing a cricket betting. These petitioners have filed W.P. No.25379 of 2017 before this Court to release them from illegal custody. The arrest of the petitioners in this case is shown on 02.08.2017 and the date of remand is shown as 03.08.2017. If the petitioners were taken into custody on 21.07.2017, as contended by them, the alleged arrest of the petitioners on 02.08.2017, seizure of ganja, etc., would be absolutely false. This question is required to be answered after due trial. This Court dismissed the bail application of these petitioners in CrI.P. No.8543 of 2017 on 19.09.2017 stating that 21 kgs of ganja was seized from the possession of the petitioners, which is a commercial quantity. The gravity of the offence is high. Taking into consideration the stage of investigation, it is not a fit case to grant bail. As per the prosecution case, the ganja was said to have been seized from the cars belonging to the petitioners, which were said to have been parked outside of their premises. No ganja was seized from the person of the petitioners. It is alleged that from the car of petitioner-A.1, 10.3 kgs of ganja and from the car of the petitioner-A.2, 10.2 kgs of ganja was seized. 20 kgs of ganja is said to be commercial quantity. 20 kgs of ganja or above quantity of ganja was not seized from the possession of any of the petitioners. As per the prosecution case, there are no more witnesses to be examined. Most part of the investigation is completed and only charge sheet is required to be filed after obtaining F.S.L. Report. As it is pointed out, these petitioners filed W.P. No.25379 of 2017 on 28.07.2017 before this Court to release them from the illegal custody of the police on 21.07.2017 and continuously they were in police custody till they were remanded to judicial custody on 03.08.2017. This contention is supported by the copies of documents. The role played by the

<sup>2</sup> 2017(3) ALT (CrI.) 141 (SC)

petitioners and the defence set up by them requires a detailed examination, which can be answered after due trial only. This Court cannot ignore the submissions and the material placed before the Court that the petitioners were taken to police custody on 21.07.2017. If it is true, the entire prosecution case would be false. Further, the officials would be liable for prosecution for the aforementioned offences, besides other offences under the Indian Penal Code. In view of the material on record, it cannot be held that the petitioners were in conspicuous possession of ganja as projected by the prosecution. It is also incorrect to hold that the petitioners would repeat similar offences in future. Under these circumstances, it is not appropriate to deny the bail to the petitioners and they can be enlarged on bail on some conditions.

7. In the result, the petitioners-A.1 and A.2 are ordered to be released on bail, on their executing personal bond for Rs.25,000/- (Rupees twenty five thousand only) each, with two sureties each for a like sum to the satisfaction of the V Additional Judicial Magistrate of First Class, Nellore, Nellore District. On release, the petitioners-A.1 and A.2 shall not leave India without permission of the trial Court. The Criminal Petition is allowed accordingly. As a sequel, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.”

ASSISTANT REGISTRAR

//TRUE COPY//

for ASSISTANT REGISTRAR

To

- 1.The I Additional District and Sessions Judge, Nellore, SPSR Nellore District.
- 2.The V Additional Judicial Magistrate of First Class, Nellore, SPSR Nellore District.
- 3.The Station House Officer, IV Town Police Station, Nellore, SPSR Nellore District.
- 4.The Superintendent, Central Prison, Nellore, SPSR Nellore District.
- 5.Two CCs to Public Prosecutor(AP), High Court of Judicature at Hyderabad (OUT)
- 6.One CC to Sri T. Nagarjuna Reddy, Advocate(OPUC)
- 7.One spare copy.

TKK

**HIGH COURT**

**DR.SA.J**

**DT.21-11-2017.**

**BAIL ORDER**



**CRL.P.No. 10830 of 2017**

**RELEASE THE PETITIONERS  
ON BAIL**

**DRAFTED BY TKK  
DT.21-11-2017.**

**HIGH COURT**

**DR.SA.J**

**DT.21-11-2017.**



**BAIL ORDER**

**CRL.P.No. 10830 of 2017**

**RELEASE THE PETITIONERS  
ON BAIL.**