

**HIGH COURT OF JUDICATURE AT HYDERABAD  
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH  
FRIDAY, THE TWENTY THIRD DAY OF FEBRUARY  
TWO THOUSAND AND EIGHTEEN**

**:PRESENT:**

**THE HON'BLE SMT. JUSTICE T. RAJANI**

**CRIMINAL PETITION NO: 1864 OF 2018**

**Between:**

Bibipet Subhash Babu @ Sailu S/o Anjanna

Petitioner/Accused-6

AND

The State of A.P., through Station House Officer, Mothugudem Police Station, East Godavari District, rep. by Public Prosecutor, High Court at Hyderabad.

Respondent

Petition under Sections 437 & 439 of Cr.P.C., praying that in the circumstances stated in the petition and the grounds filed herein, the High Court may be pleased to enlarge the petitioner/Accused No.6 on bail in Crime No. 1 of 2017 on the file of Mothugudem Police Station, East Godavari District;

**Counsel for the Petitioner : SRI G.VENKATA REDDY**

**Counsel for the Respondent : PUBLIC PROSECUTOR, (AP)**

**The Court made the following Order:**

**“This petition is filed, under Sections 437 and 439 of the Criminal Procedure Code, 1973, seeking to enlarge the petitioner, who is A6, on bail in Crime No.01 of 2017, on the file of Mothugudem Police Station, East Godavari District, for the offences punishable under Sections 8(c) r/w 20(b)(ii)(c) of NDPS Act, 1985.**

**2. Heard the counsel for the petitioner and the Public Prosecutor appearing for the respondent.**

**3. As per the case of the prosecution, 40 Kgs of Ganza was sized from the car, in which this petitioner and the two other accused were travelling, which is beyond the commercial quantity. Section 37 of the NDPS Act does not permit the court to grant bail to the petitioner, where contraband involved is commercial quantity.**

**4. The counsel for the petitioner submits that there are three accused in this case and that when the quantity is divided among the three accused, it falls below the commercial quantity and hence, it cannot be considered as a case involving commercial quantity. In support of his submission, he relies on the orders of this court, dated 08.03.2017, passed in Crl.P.Nos.1501 and 1508 of 2017 and Crl.P.No.12155 of 2015, from which it can be understood that this court took a view that when the quantity of contraband is seized, it has**

to be divided among people, who are found to be in possession of such quantity and if on such division, the quantity falls lesser than the commercial quantity, Section 37 of the NDPS Act will not be a hurdle for grant of bail.

5. Hence, going by the said ratio, which seems to be rational, the petitioner is directed to be enlarged on bail on condition of his executing a personal bond for a sum of Rs.20,000/- (Rupees twenty thousand only) with two sureties for a like sum each to the satisfaction of the I Additional District and Sessions Judge, East Godavari District at Rajamahendravaram and to appear before the trial Court on the dates given by the concerned Court.

6. The learned Public Prosecutor submits that a direction may be given to the petitioner to attend before the Police Station twice a week.

7. Hence, the petitioner is directed to appear before the Station House Officer, Mothugudem Police Station, East Godavari District, on every Monday and Wednesday between 09:00 AM and 12:00 noon.

8. With the above observations, the Criminal Petition is allowed. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

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ASSISTANT REGISTRAR

For ASSISTANT REGISTRAR

To

1. The I Addl. District and Sessions Judge, East Godavari District, Rajamahendravaram.
2. The Judicial First Class Magistrate, Rampachodavaram, East Godavari District.
3. The Station House Officer, Mothugudem Police Station, East Godavari District.
4. The Superintendent, Central Jail, Rajamahendravaram, East Godavari District.
5. Two CCs to Public Prosecutor, (AP) High Court of Judicature, at Hyderabad (OUT)
6. one CC to Sri G.Venkata Reddy, Advocate (OPUC)
7. one Spare Copy

**HIGH COURT**

**TR,J**

**DATE:23-2-2018**

**ORDER**

**CRL.P. NO. 1864 OF 2018**

**BAIL**



**HIGH COURT**

**AB  
DRAFTED ON 26-2-2018**

**TR,J**

**DATE:23-2-2018**



**ORDER**

**CRL.P. NO. 1864 OF 2018**

**BAIL**