

**HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND STATE OF ANDHRA PRADESH**

TUESDAY, THE TWENTY SEVENTH DAY OF FEBRUARY,
TWO THOUSAND AND EIGHTEEN

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

CRIMINAL PETITION NO: 2013 OF 2018

Between:

Mohammad Hakkem, S/o.Samsheer

.....Petitioner/A.3

AND

The State of A.P., through Station House Officer, Mothugudem P.S., Visakhapatnam
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 memorandum of grounds filed herein the High Court may be pleased to enlarge the petitioner/accused No.3 on bail in Crime No.1/2017 on the file of Mothugudem P.S., Visakhapatnam District

The petition coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of Mr.G.Venkata Reddy, Advocate Petitioner and of the learned Public Prosecutor (AP) for Respondent.

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 A3, 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.

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 seized from the car in which this petitioner was going along with two other accused, 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 CrI.P.Nos.1501 and 1508 of 2017 and CrI.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. The counsel for the petitioner also submits that A6 in this case was enlarged on bail considering the said facts.

5. Hence, going by the said ratio, which is 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 Judicial First Class Magistrate, Rampachodavaram 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 2:00 noon.

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

Sd/-B.SATYAVATHI
ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To

1. The Judicial First Class Magistrate, Rampachodavaram
2. The 1st Additional District and Sessions Judge, East Godavari at Rajamahendravaram
3. The Superintendent, Central Jail, Rajamahendravaram (Rajahmundry)
4. The Station House Officer, Mothugudem Police Station, East Godavari District.
5. Two CCs to the Public Prosecutor (AP), High Court at Hyderabad (OUT)
6. One CC to Mr.G.Venkata Reddy, Advocate [OPUC]
7. One spare copy



HIGH COURT

TR,J

DATED: 27.2.2018

CRL.P.NO.2013 OF 2018

BAIL



TRk
Dated: 28.2.2018

HIGH COURT

TR,J

DATED: 27.2.2018

CRL.P.NO.2013 OF 2018



BAIL