

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

FRIDAY, THE TWENTY THIRD DAY OF APRIL

TWO THOUSAND AND TWENTY ONE

:PRESENT:

THE HONOURABLE JUSTICE G SRI DEVI

CRL.P. NO: 1032 OF 2021

Between:

Andem Gopi, S/o.Venkanna

..... Petitioner/Accused No.2

AND

The state of Telangana, Rep by Public Prosecutor, High court of Judicature at Hyderabad Through the Station House Officer, P.S.Enkooor Khammam District, T.S.

.....Respondent/Respondent

Petition under Sections 437 & 439 of Cr.P.C. praying that in the circumstances stated in the petition filed herein, the High Court may be pleased to enlarge the petitioner/Accused no.2 on bail in connection with Crime No.159 OF 2020, Police, Enkooor Khammam district, during the pendency of inquiry and trial.

The petition coming on for hearing, upon perusing the Petition and the grounds filed in support thereof and upon hearing the arguments of Sri Ramesh Bura, Advocate for the Petitioner, and of Assistant Public Prosecutor for the respondent, the Court made the following.

ORDER

THE HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.1032 of 2021

ORDER:

This Criminal Petition, under Sections 437 and 439 of the Code of Criminal Procedure, 1973, is filed by the petitioner/A2 seeking to grant bail to him in connection with Cr.No.159 of 2020 on the file of Enkoor Police Station, Khammam District, registered for the offence punishable under Section 8(c) read with Section 20(b)(ii)(B) of NDPS Act, 1985.

2. Heard learned counsel appearing for the petitioner/A2, learned Assistant Public Prosecutor appearing for the respondent-State and perused the record.

3. It is alleged in the remand report of A1 that on 22.10.2020 at 0800 hours, on reliable information, the S.I. of Police along with his staff rushed to Abhayanjaneya Swamy Temple, situated at the outskirts of Himamnagar Village, and while conducting vehicle check at Enkoor Centre, they apprehended A1 and seized 60 kgs of dry ganja from his possession under a cover of panchanama and on enquiry, he confessed that he along with A2 was doing ganja business by purchasing the same from A3 in order to sell the same at higher price and thereafter, the police registered the aforesaid case against the accused.

4. Learned counsel for the petitioner/A2 submits that the petitioner has not committed any offence, much less the alleged offence and he has been falsely implicated in the crime. He further submits that the petitioner has not been involved in any similar type of offences within six months prior to this occurrence. ~~He~~ He further submits that the petitioner was arrested on 04.01.2021 and that the entire allegations made in the complaint are all false and factious. He further submits that as A1 has already been enlarged on bail, the petitioner's case may be considered on the ground of parity. He also submits that the petitioner is a law abiding

citizen and ready to abide by any condition imposed by this Court in the event of his enlargement on bail.

5. Relying upon the judgments of the Apex Court in **State of Kerala v. Rajesh¹**, **Preet Pal Singh v. state of U.P.²** and **The State of (GNCT of Delhi) Narcotics Central Bureau v. Chandha³**, learned Assistant Public Prosecutor appearing for the State opposed the petition contending that unless satisfied the requirement under Section 37 of NDPS Act, 1985, this Court cannot enlarge the petitioner on bail as a matter of course.

6. As seen from the remand report of A1, the petitioner/A2 is involved in other four cases, out of which one case was registered in Cr.No.127 of 2018 for the offence under Section 8(c) read with Sec.20(b)(ii)(B) of NDPS Act and all other three cases were registered for the offence under Section 380 IPC and they pertain to 2014.

7. In **Sheru v. Narcotics Control Bureau⁴** a three Judge Bench of the Apex Court while granting bail to a person in a case filed under the Narcotic Drugs and Psychotropic Substances Act in view of unusual times of the COVID-19 pandemic, held as under:

"We have given a thought to the matter and there is no doubt that the rigors of Section 37 of the N.D.P.S.Act would have to be met before the sentence of a convict is suspended and bail granted and mere passage of time cannot be a reason for the same. However, we are faced with unusual times where the Covid situation permeates. We are also conscious that this Court has passed orders for release of persons on bail to de-congest the jail but that is applicable to cases of upto seven years sentence.

In the given aforesaid facts and circumstances of the case, we consider it appropriate to enlarge the appellant on bail on terms and conditions to the satisfaction of the Trial Court."

¹ 2020 (12) SCC 122

² 2020 (8) SCC 645

³ CrI.A.No.257 of 2021 (SLP (Cri.) No.670 of 2021)

⁴ CrI.Appeal Nos.585, 586 of 2020, dated 11.09.2020

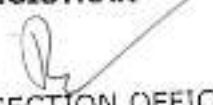
8. In view of the judgment of the Apex Court in **Sheru's case (4 supra)**; having regard to the fact that the petitioner is in jail since 04.01.2021 and looking into the nature of allegations leveled against the petitioner/A2 and since no contraband is seized from the possession of the petitioner/A2 in the present crime and also in view of the peculiar conditions of pandemic COVID-19 prevailing in the country, without delving into the merits of the matter, I am inclined to grant bail to the petitioner/A2.

9. The Criminal Petition is allowed and the petitioner/A2 is directed to be released on bail, subject to the following terms and conditions:

- (i) The petitioner/A2 shall be released on bail on his executing a personal bond to the tune of Rs.30,000/- (Rupees thirty thousand only) with two sureties for a like sum each to the satisfaction of the Principal Judicial Magistrate of First Class, Kothagudem.
- (ii) On such release, the petitioner/A2 shall appear before the Investigating Officer on 3rd Saturday of every month between 10.00 AM and 2.00 PM., till completion of investigation or filing of the charge sheet, whichever is earlier.
- (iii) the petitioner/A2 shall appear before the Court concerned personally on each date of hearing till conclusion of trial.
- (iv) the petitioner/A2 shall not indulge in any similar type of activities in future. If he is indulged in similar type of activities or involved in any other criminal cases in future, liberty granted to him shall stand cancelled automatically.
- (v) the petitioner/A2 shall not tamper with the prosecution witnesses;
- (vi) the petitioner/A2 shall co-operate with the investigating agency.
- (vii) the petitioner/A2 shall not misuse the liberty granted to him.

SD/- R. KARTHIKEYAN
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

✓ A.R./

To

1. The Special Sessions Judge for the trial of cases under Narcotic Drugs and Psychotropic Substances Act cum I Addl. Sessions Judge at Khamma
2. The Principal Judicial Magistrate of First Class at Kothagudem
3. The Superintendent, District Prison, Khammam
4. The Station House Officer, Police Station, Enkoor Khammam district.
5. Two CCs to the Public Prosecutor, High Court at Hyderabad (OUT)
6. One CC to Sri Ramesh Bura, Advocate (OPUC)
7. One spare copy.

HIGH COURT



GSD,J

DATED: 23.04.2021

ORDER:

CRLP. NO: 1032 of 2021

BAIL