

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THURSDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND TWENTY ONE

:PRESENT:

**THE HONOURABLE JUSTICE G SRI DEVI
CRIMINAL PETITION NO: 6212 OF 2021**

Between:

1. Shaik Mehraj, S/o. Shalk Yaqub,
 2. Mohd. Abdul Rawoof, S/o. Late Mohammed Abdul Khadeer,
- Petitioners/Accused No.1&2**

AND

The State of Telangana, Through P.S. Kanchanbagh, Rep. by
Public Prosecutor, High Court at Hyderabad.

Respondent/Complainant

Petition under Section 437 & 439 of Cr.P.C, praying that in the circumstances stated in the grounds filed in the Criminal Petition, the High Court may be pleased to enlarge the Petitioners/Accused Nos.1 and 2 on bail in Crime No. 31 of 2021, on the file of the Police Station Kanchanbagh, Hyderabad;

The petition coming on for hearing, upon perusing the Petition and the grounds filed in support thereof and upon hearing the arguments of SRI PALLE SRIHARINATH Advocate for the Petitioners and the Assistant Public Prosecutor for the Sole Respondent, the Court made the following.

ORDER:

THE HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL PETITION No.6212 of 2021

ORDER:

This criminal petition, under Sections 437 and 439 of the Code of Criminal Procedure, 1973, is filed by the petitioners/A1 and A2 seeking to grant bail to them in Cr.No.31 of 2021 on the file of Kanchanbagh Police Station, Hyderabad, registered for the offence under Section 8(c) read with Section 20(b)(ii) of NDPS Act, 1985.

2. Heard learned counsel appearing for the petitioners/A1 and A2, learned Assistant Public Prosecutor appearing for the respondent-State and perused the record.

3. The prosecution case is that on 25.02.2021 at about 9 00 AM, on credible information, the police apprehended A1 to A4 and seized 80 kgs of ganja from their possession under a cover of panchanama and thereafter registered a case against them.

4. Learned counsel for the petitioners/A1 and A2 submits that the petitioners are innocent of the alleged offences and they have been falsely implicated in the present crime. He further submits that even as per the confessional statements, A5 has engaged them as driver and worker to transport ganja from Vizag to deliver the same to A6. He also submits that the petitioners are in judicial custody since 25.02.2021 and they are not having any criminal antecedents prior to the alleged occurrence and they are law abiding citizens and ready to abide by any condition imposed by this Court in the event of their enlargement on bail.

5. 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, and he relied upon the judgments

of the Apex Court in *State of Kerala v. Rajesh*¹, *Preet Pal Singh v. state of U.P.*² and *The State of (GNCT of Delhi) Narcotics Central Bureau v. Chandha*³.

6. In *Sheru v. Narcotics Control Bureau*⁴ 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."

7. In view of the judgment of the Apex Court in **Sheru's case (4 supra)**; and as the charge sheet has already been filed, the question of tampering with the evidence does not arise 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 petitioners/A1 and A2.

8. The Criminal Petition is allowed and the petitioners/A1 and A2 are directed to be released on bail, subject to the following terms and conditions:

- (i) The petitioners/A1 and A2 shall be released on bail on their executing a personal bond to the tune of Rs.50,000/- (Rupees

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

fifty thousand only) each with two sureties for a like sum each to the satisfaction of the VII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad.

(ii) the petitioners/A1 and A2 shall appear before the Court concerned personally on each date of hearing till conclusion of trial.

(iii) the petitioners/A1 and A2 shall not indulge in any similar type of activities in future. If they are indulged in similar type of activities in future, liberty granted to them shall stand cancelled automatically.

(iv) the petitioners/A1 and A2 shall not tamper with the prosecution witnesses;

(v) the petitioners/A1 and A2 shall co-operate with the investigating agency.

(vi) the petitioners/A1 and A2 shall not misuse the liberty granted to them.

9. Miscellaneous petitions, if any pending in this criminal petition, shall stand closed.

Sd/- T.TIRUMALA DEVI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The VII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad.
2. The Superintendent Central Prison at Chanchalguda, Hyderabad.
3. The Station House officer, Police Station Kanchanbagh, Hyderabad.
4. One CC to SRI. PALLE SRIHARINATH Advocate [OPUC]
5. Two CCs to PUBLIC PROSECUTOR, High Court at Hyderabad. [OUT]
6. One Spare Copy

HIGH COURT

GSDJ

DATED:12/08/2021



ORDER

CRLP.No.6212 of 2021

BAIL