

THE HONOURABLE SMT JUSTICE K. SUJANA

CRIMINAL PETITION No.1866 of 2025

ORDER:

The present Criminal Petition is filed praying this Court to enlarge the petitioners who are arrayed as accused Nos.1 to 3 in Crime No.1199 of 2024 before the LB.Nagar Police Station, Rachakonda Commissionerate, registered for the offences punishable under Sections 8(c) read with 20(b)(ii)(c) of the Narcotic Drugs And Psychotropic Substances Act, 1985, (for short 'NDPS') on bail.

2. The brief facts of the case are that on November 12, 2024, at 19:40 hours, a complaint was received from Sub-Inspector of Police, Satish, regarding three male persons aged between 20 to 25 years, suspected of selling or delivering psychotropic substances near Narsing Mall, LB Nagar. Based on this information, a team was formed, and the petitioners/accused persons - Vanthala Narayana, Vanthala Ramesh, and Killo Arjun - were apprehended at 18:06 hours. During questioning, they revealed that they were in possession of Hash Oil, which they intended to deliver

to a customer named Rahul. The accused persons made confessional statements, and a total of three packets containing Hash Oil, weighing 1104 grams, 1104 grams, and 1111 grams, were seized along with their cell phones. Thereby, a case was registered against the petitioners, arraying them as accused Nos.1 to 3, for the offences as alleged. Aggrieved thereby, this Criminal Petition is filed.

3. Heard Sri CH.Raj Kumar, learned counsel for petitioners, and Sri Syed Yasar Mamoon, learned Additional Public Prosecutor appearing on behalf of respondent – State.

4. Learned counsel for the petitioners submitted that the complaint lacks specific overt acts against the petitioners, instead making only general and vague allegations. He contended that the police have completed the material part of the investigation, examining all relevant witnesses, thereby, eliminating any concerns about evidence tampering. He asserted that the petitioners have been incarcerated since November 12, 2024, and that they are residents of Vishakapatnam, AP, belonging to a middle-class family with no questionable antecedents. He lamented that aside from

their confession, there is no substantial evidence linking them to the case, and their confession statement has no evidentiary value. He averred that the wife of petitioner No.2 died few days back. Therefore, prayed this Court to grant bail to the petitioners by allowing this criminal petition.

5. On the other hand, learned Additional Public Prosecutor opposed the submissions made by the learned counsel for the petitioners stating that the quantum of recovery of contraband constitutes commercial quantity and that the petitioners are likely involved in the illegal activity, and that releasing the petitioners on bail, could lead to them committing similar offences. Therefore, prayed the Court to dismiss the criminal petition.

6. Having regard to the rival submissions made and on going through the material placed on record, it is noted that the petitioners were implicated in the case for their alleged involvement in illegal activity which revolves around possession of Hash Oil, which they intended to deliver to a customer named Rahul. The petitioners made confessional statements, basing on which a total of three packets

containing Hash Oil, weighing 1104 grams, 1104 grams, and 1111 grams, were seized along with their cell phones. It is further noted that the seized contraband is huge commercial quantity. That being so, it is relevant to extract Section 37 of the NDPS Act, which reads as under:

“37. Offences to be cognizable and non-bailable. -- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),--(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for 1[offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is

not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.”

7. In view thereof, it is clear that Section 37 of the NDPS Act mandates that offences involving commercial quantities be non-bailable, requiring reasonable grounds to believe that the accused is not guilty and unlikely to commit further offences while on bail. Given the serious set of allegations leveled against the petitioners with regard to their involvement in selling and transporting hash oil of huge commercial quantity, this Court is not satisfied that conditions for granting bail under Section 37 are met. Further, the investigation in the case is not yet completed. Therefore, there are no merits in this case and the same is liable to be dismissed. However, considering the fact that the wife of petitioner No.2 died last week, this Court deems it fit to dismiss the petition with regard to petitioner Nos.1 and 3

and is inclined to grant the relief of bail only to petitioner No.2.

8. Accordingly, this Criminal Petition is partly allowed, granting bail only to the petitioner No.2, subject to following the below conditions:

- i. The petitioner No.2 shall execute a personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties for a like sum each, to the satisfaction of the II Additional Junior Civil Judge cum II Additional Junior Magistrate of First Class, at LB.Nagar.
- ii. The petitioner No.2 shall appear before the concerned SHO at 11:00 a.m., on every Monday for a period of eight (8) weeks, for the purpose of investigation, and thereafter, as and when required.
- iii. The petitioner No.2 shall abide by the conditions stipulated in Section

482(2) of BNSS (previously known as
Section 437(3) of Cr.P.C.).

Miscellaneous applications, if any pending, shall stand
closed.

K. SUJANA, J

Date: 07.03.2025
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