

THE HON'BLE SRI JUSTICE J. SREENIVAS RAO

CRIMINAL PETITION No.4378 of 2025

ORDER:

This criminal petition is filed by the petitioners/A1 to A3 under Sections 480 and 483 of Bharatiya Nagrik Suraksha Sanhita (BNSS) to grant regular bail in Crime No.76 of 2024 of Excise Ameerpet Police Station, registered for the offence punishable under Section 8(c) read with Section 21(C) of the Narcotic Drugs And Psychotropic Substances Act, 1985 (for short, "the NDPS Act").

2. The case of the prosecution is that on 18.10.2024 at about 01:30 p.m., beside Daddu Ka Biryani Hotel, Road No.11, Banjarahills, Hyderabad, A1 to A3 were found in possession of 21.66 grams of MDMA. Hence, the petitioners along with other accused have committed the above said offence.

3. Heard Sri Srinivas Rao Busi, learned counsel for the petitioners, and Sri Syed Yasar Mamoon, learned Additional Public Prosecutor for the respondent.

4. Learned counsel for the petitioners submits that the petitioners have not committed the offence and they were falsely implicated in the present crime. He further submits that the police without following the mandatory procedure prescribed under Section 52 of the NDPS Act, registered the crime and arrested the petitioners on 18.10.2024 and since then they are in judicial custody and that they are ready and willing to cooperate with the investigation and also abide by the conditions that are going to be imposed by this Court. He further submits that the petitioners are not having any criminal antecedents and material part of investigation is completed except filing of charge sheet. He further submits that the father of petitioner No.3/A3, namely, Surabhi Aveti Kali Charan, died on 24.03.2025 and therefore, the presence of the petitioner is very much required to perform the death ceremonies of his father.

5. Per contra, learned Additional Public Prosecutor submits that the petitioners have committed grave offence under the provisions of the NDPS Act and the police seized

the contraband from the petitioners and other accused was 21.66 grams of MDMA, which is commercial quantity.

6. It is relevant to mention 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, 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. Since the allegations levelled against petitioner Nos.1 and 2/A1 and A2 are serious in nature, this Court is not satisfied that conditions for granting bail under Section 37 are met. Therefore, the criminal petition in respect of petitioner Nos.1 and 2/A1 and A2 lacks merit and the same is accordingly dismissed.

8. Insofar as petitioner No.3/A3 is concerned, this Court is inclined to grant bail to petitioner No.3/A3 on the sole ground that his father died on 24.03.2025 and his presence is required to perform the death ceremonies of his father on the following conditions:

- (1) Petitioner No.3/A3 is enlarged on bail on executing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousands only) with two

sureties for a like sum each to the satisfaction of the Metropolitan Sessions Judge, Hyderabad.

(2) Petitioner No.3/A3 shall appear before the concerned SHO at 11:00 A.M. on every Monday for a period of eight (8) weeks or till filing of charge sheet whichever is earlier, for the purpose of investigation and thereafter as and when required.

(3) After release, if petitioner No.3/A3 commits similar offence, the bail, which was granted by this Court, shall stand cancelled.

(4) Petitioner No.3/A3 shall abide by the conditions stipulated in Section 437(3) of Cr.P.C. (presently, Section 480(3) of the BNSS).

9. Accordingly, the criminal petition is allowed.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE J.SREENIVAS RAO, J

Date: 03.04.2025
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