

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

CRIMINAL PETITION No.6532 of 2025

ORDER:

This Criminal Petition is filed under Sections 480 and 483 of Bharatiya Nagarik Suraksha Sanhitha, 2023 (for short 'BNSS') seeking bail to the petitioner/accused No.4 in Crime No.195 of 2023 on the file of Elkathurthy Police Station, Hanumakonda, registered for the offence punishable under Section 8(c) r/w 20 (b) (ii) (C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act').

2. The case of the prosecution is that in view of forthcoming Assembly elections, on 16.10.2023, at 06.00 hrs, the de facto complainant, Sub-Inspector of Police, Elkathurthy Police Station, along with other staff were conducting vehicle checking duty, at about 08:30 hours they stopped one Eicher truck and found two persons under suspicious circumstances and on questioning they stated that they are transporting ganja packets. On interrogation before the mediators, they revealed their identity as Koli Raja Varma/accused No.1 and Nandev Saheb Rao Patil/accused No.2.

They further stated that they are transporting said ganja in the said vehicle to hand over the same to Rahul Sabley/accused No.3 and Shubham Gothiram Sabley/accused No.4 and that accused No.4 purchased 150 dry ganja packets each packet containing 2 kgs from Sheshu/accused No.5. The Police seized the said ganja under cover of panchanama before the mediators along with the vehicle and cell phone. The accused No.4 was produced before this Court on PT warrant on 18.12.2024.

3. Heard Mr.R.Sushanth Reddy, learned counsel for the petitioner and Mr.Syed Yasar Mamoon, learned Additional Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioner submitted that the petitioner has not committed the offence and he was falsely implicated in the above said crime, basing on the confession statement given by other accused. He further submitted that the Police without following the mandatory procedure prescribed under the provisions of the NDPS Act, seized the contraband. He further submitted that the petitioner was arrested on 18.12.2024 and since more than 190 days, he is in judicial custody and material

part of the investigation is completed. The investigating officer have not filed the charge sheet, they only filed charge sheet against accused Nos.1 and 2. Hence, the petitioner is entitled for grant of statutory bail as envisaged under the provisions of 36-A of NDPS Act.

5. *Per contra*, learned Additional Public Prosecutor submitted that petitioner/accused No.4 has committed grave offence under the provisions of NDPS Act and 300 kgs. of ganja was seized from possession of the petitioner and other accused, which is a commercial quantity. As per the provisions of NDPS Act, 1 kg is small quantity, the contraband seized from the petitioner in this crime is more than commercial quantity. Hence, the petitioner is not entitled for grant of bail.

6. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it reveals that petitioner was arrested on 18.12.2024 and since more than 190 days he is in judicial custody. The record reveals that the investigating officer have filed charge sheet in

respect of Nos.1 and 2 only and they have not filed against the petitioner/accused No.4.

7. Taking into consideration the above facts and circumstances of the case and considering the incarceration period, this Court is inclined to grant bail to the petitioner/accused No.4 subject to the following conditions.

(i) The petitioner/accused No.4 shall execute a personal bond for a sum of Rs.50,000/-(Rupees fifty thousand only) with two sureties for a like sum each to the satisfaction of the Judicial First Class Magistrate (PCR) Court at Hanumakonda.

(ii) After release, if the petitioner/accused No.4 indulges in similar offence, the respondent-State is entitled to file an application seeking cancellation of the bail granted by this Court in his favour.

(iii) After release, the petitioner/accused No.4 shall not influence the witnesses or interfere with the investigation.

(iv) The petitioner/accused No.4 shall abide by the other conditions stipulated in Section 437(3) of Cr.P.C., presently Section 483(3) of BNSS.

8. Accordingly, the Criminal Petition is allowed.

Miscellaneous applications, pending if any, shall stand closed.

JUSTICE J.SREENIVAS RAO

Date: 26.06.2025
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