

THE HONOURABLE SMT. JUSTICE K. SUJANA

CRIMINAL PETITION No.10948 of 2025

ORDER:

This Criminal Petition is filed seeking the Court to enlarge the petitioner, on bail, who is arrayed as accused No.4 in S.C. NDPS No.71 of 2023 on the file of the learned I Additional District and Sessions Judge, Medchal-Malkajgiri District at Kushaiguda.

2. Heard Sri P. Vishnuvardhana Reddy, learned Counsel appearing on behalf of the petitioner as well as Sri Dominic Fernandes, learned Standing Counsel for CBIC appearing on behalf of the respondent.

3. Learned counsel for the petitioner submitted that the petitioner was falsely implicated and that there was no incriminating material to establish his involvement in the alleged offence and that the confessional statements recorded under Section 67 of the NDPS Act and Section 25 of the Evidence Act were inadmissible, and that the search and seizure were illegal, being in violation of Sections 42 and 50 of the NDPS Act. He further submitted that the investigation

was completed, all witnesses were examined, and the petitioner had been in custody since 22.12.2022 for over 974 days despite his full cooperation. He contended that Accused No.2, similarly placed, had already been granted bail, and that the petitioner, suffering from hereditary diabetes requiring constant medical supervision, deserved similar consideration. Therefore, he prayed the Court to grant bail to the petitioner by allowing this criminal petition.

4. On the other hand, learned Standing Counsel opposed the bail stating that the alleged offence against the petitioner is serious in nature. Further, the contraband involved in this case is huge commercial quantity i.e., 136.275 kgs of Mephedrone. Therefore, he prayed the Court to dismiss the criminal petition.

5. In the light of the submissions made by both the learned counsel and upon a perusal of the material available on record, it appears that the petitioner has been in judicial custody since 22.12.2022. It is the specific contention of the learned counsel for the petitioner that the investigation has been completed and that the petitioner has been in custody for more than three years. It is further contended that though

this Court had earlier directed the trial Court to conclude the trial within a period of six months, the same has not been complied with. However, the learned Standing Counsel for the respondent contended that the contraband involved in the present case is of a huge commercial quantity, i.e., 136.275 kgs of Mephedrone. At this stage, it is pertinent to note 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 of the above, Section 37 of the NDPS Act mandates that offences involving commercial quantities are non-bailable, and bail can be granted only upon satisfaction of the twin conditions mentioned therein. Having regard to the serious allegations and the huge commercial quantity of contraband involved, this Court is not satisfied that the conditions stipulated under Section 37 of the NDPS Act are met. Further, the fact that the petitioner has been in custody for three years, by itself, cannot be a ground to grant bail. Considering the facts and circumstances of the case, this Court deems it appropriate to direct the trial Court to dispose of the matter as expeditiously as possible.

8. With the above direction, this Criminal Petition is disposed of.

Miscellaneous applications, if any pending, shall stand closed.

K. SUJANA, J

Date: 13.10.2025
SAI

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