

THE HONOURABLE SMT JUSTICE K. SUJANA

CRIMINAL PETITION No.12222 of 2025

ORDER:

This Criminal Petition is filed seeking this Court to enlarge the petitioner on bail who is arrayed as accused No.1 in Crime No.88 of 2025 of Palavancha Rural Police Station, Bhadradri-Kothagudem District, registered for the offence punishable under Section 8(c) read with 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act').

2. The brief facts of the case are that on 20.06.2025, the police intercepted the accused and seized 37.650 kilograms of ganja from the possession of accused Nos.1 to 3. The accused were subsequently arrested, and a case was registered against them *vide* Crime No.88 of 2025 for the aforementioned offence.

3. Heard Sri Veera Babu Gandu, learned counsel appearing petitioner, and Sri Arun Kumar Doddla, learned Additional Public Prosecutor appearing on behalf of the respondent-State.

4. Learned counsel for the petitioner submitted that the petitioner is innocent and has been falsely implicated. The prosecution failed to follow mandatory provisions of the NDPS Act, including Sections 42, 50, and 52-A, and did not adhere to the seizing methods and sampling procedures as per Standing Order 1 of 1989. He contended that the investigation was completed without following due process, causing prejudice to the accused. He asserted that the petitioner has no criminal history, and the quantity of contraband seized does not fall under commercial quantity, warranting consideration for regular bail. He averred that the other accused in this crime were already granted with the relief of bail and sought for parity in the case of petitioner as well. Therefore, prayed this Court to allow this criminal petition, granting the relief of bail to petitioner.

5. On the other hand, learned Additional Public Prosecutor opposed the submissions made by the learned counsel for the petitioner stating that the seized contraband is of commercial quantity, the investigation is not yet completed, therefore, granting bail to the petitioner, at this stage, does not arise. Hence, he 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 contention of learned counsel for petitioner is that the case against the petitioner is false and fictitious, whereas, the learned Additional Public Prosecutor opposes the petition, citing that seized contraband is commercial quantity. That being so, 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. From the above extracted portion, it is clear that Section 37 of the NDPS Act mandates that offences involving commercial quantities be non-bailable, requiring reasonable grounds to believe the accused is not guilty and unlikely to commit further offences while on bail. That apart, though learned counsel for the petitioner contended that the other accused are already on bail and the parity be taken for the petitioner as well, it is noted that even according to remand case diary, the other accused were not in conscious possession of contraband, as such, the relief was granted to them, whereas, the allegations against the petitioner are not the same. Given the serious allegations against the petitioner, this Court is not satisfied that conditions for granting bail under Section 37 are met.

8. In light of the above discussion, this Court is of the opinion that there are no merits in this criminal petition and the same is liable to be dismissed.

9. Accordingly, this Criminal Petition is dismissed.

Miscellaneous applications, if any pending, shall stand closed.

Date: 13.10.2025
PT

K. SUJANA, J

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