APHC010575122026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3521]
(Special Original Jurisdiction)

WEDNESDAY, THE 4th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 9650/2026

Between:

1. G SAMSANU, S/O. G. RAVIAGED ABOUT 33 YEARS, RESIDING AT D.NO.1-201O.G. KUPPAM, ORANTHANGANGOLLAKUPPAMKAVETIPURAM, NAGARI MANDAL, CHITTOOR DISTRICT, ANDHRA PRADESH.

2. HARIKRISHNA, S/O. SUBRAMANYAM,AGED ABOUT 34 YEARS, RESIDING AT D.NO. 1-170,O.G. KUPPAM, ORANTHANGAN GOLLAKUPPAM,KAVETIPURAM, NAGARI MANDAL, CHITTOOR DISTRICT, ANDHRA PRADESH.

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR,HIGH COURT OF ANDHRA PRADESH AMARAVATI.

2. THE STATION HOUSE OFFICER, NAGARI URBAN POLICE STATION CHITTOOR DISTRICT, ANDHRA PRADESH

...RESPONDENT/COMPLAINANT(S):

Counsel for the Petitioner/accused(S):

P BADRINATH

Counsel for the Respondent/complainant(S):

PUBLIC PROSECUTOR

The Court made the following:

ORDER:

The Criminal Petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity, 'the BNSS') by the petitioners/Accused Nos.3 and 4, seeking grant of pre-arrest bail in connection with Crime No.44 of 2026 of Nagari Urban Police Station, Chittoor District, registered for the alleged offences punishable under Section 8(c) read with 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity, NDPS, Act).

2. Mr.P.Badrinath, learned counsel for the petitioners, submits that the petitioners are innocent, have not committed the alleged offence and have been falsely implicated by the police. It is further submitted that they are the sole earning members of the family and, therefore, their incarceration would cause undue hardship to their dependants. They are law-abiding citizens. The material portion of the investigation has been completed. The petitioners undertake to strictly adhere to any conditions that may be imposed by this Court. In light of the foregoing submissions, the learned counsel prays that the present petition be allowed in the interest of justice.

3. *Per contra*, Mr.A.Sai Rohit, learned Assistant Public Prosecutor, vehemently opposed the grant of pre-arrest bail to the petitioners and submits that the investigation is not yet completed. If the petitioners are enlarged on

pre-arrest bail, they may not cooperate with the Investigating Officer and may evade the process of law. Hence, it is urged to dismiss the petition.

4. Heard the learned counsel for the petitioners and the learned Assistant Public Prosecutor. Perused the record.

5. As seen from the record, the petitioners herein are arraigned as Accused Nos.3 and 4. There are four adverse antecedents reported against petitioner/Accused No.3, out of which two relate to NDPS cases and the remaining two relate to IPC cases. Against petitioner/Accused No.4, there are two adverse antecedents, one relating to an NDPS case and the other to an IPC case. The allegation against the petitioners is that they were associates of Accused Nos.1 and 2. The seized contraband is 12.590 kgs of ganja. Accused Nos.1 and 2 have already been enlarged on regular bail. The investigation is still at a progressive stage, and the accusations against the petitioners appear to be well-founded.

6. The Hon'ble Apex Court in **Satpal Singh v. State of Punjab**[1], at paragraph Nos.14 & 15, held as under:

> *14. Be that as it may, the order dated 21-9-2017 [Beant Singh v. State of Punjab, 2017 SCC OnLine P&H 3801] passed by the High Court does not show that there is any reference to Section 37 of the NDPS Act. The quantity is reportedly commercial. In the facts and circumstances of the case, the High Court could not have and should not have passed the order under Section 438 or 439 CrPC without reference to Section 37 of the NDPS Act and without entering a finding on the required level of satisfaction in case the Court was otherwise inclined to grant the bail. Such a satisfaction having not being entered, the order dated 21-9-2017 [Beant Singh v. State of Punjab, 2017 SCC OnLine P&H 3801] is only to be set aside and we do so.*
> *15. Consequently, the order dated 31-10-2017 passed by the Sessions Court is also set aside. All the three accused in both these appeals are directed to surrender before the trial court. However, we make it clear that they are free to apply for regular bail, in which case, the Sessions Court will consider the matter on the merits of the application. Before parting with the judgment, we also painfully note that even in the inquiry conducted pursuant to the orders passed by this Court, there was no reference*

[1](2018) 13 SCC 813

to the regular bail granted to Beant Singh and Gurwinder Singh and that too, on production of an interim order passed by the High Court. Had the same been noticed, the State would have certainly taken steps much earlier. This is once again to remind the police and the prosecutor that they need to show due diligence and vigilance while dealing with the cases under the NDPS Act."

7. The High Court of Rajasthan in **Prabhulal & Anr. v.State of Rajasthan**[2], at paragraph No.6 held as under:

"6. On the other hand, Mr. V.S. Gujar and Mr. Suresh Pareek have vehemently contended that in view of stringent provisions of Section 37 (1) of the N.D.P.S. Act, petitioners are not entitled to get bail even under Section 439, Cr. P.C. and there is hardly any ground to grant them anticipatory bail in such cases. Learned counsel further contended that petitioners are avoiding their arrest and there is sufficient material to establish their involvement in the crime. It was also contended that the bail application under Section 439, Cr. P.C. of co-accused Ram Kumar to whom the contraband articles were to be delivered, as well as the application of co-accused Bharat Singh were rejected by this Court on 15.12.94 and 15.7.94, respectively.In 1994 (3) W.L.C. ([Raj.) 622, while considering the scope of anticipatory bail in a case registered under the N.D.P.S. Act, it was observed by me, as under:-

"The object and reason behind passing the amendments was to make stringent provisions of bail as it was thought that such powers should not be used to defeat the object of the Act and a technical plea should not be a ground for under -serving liberty under the Act. The non-obstante clause in Section 37 (1) of the /Act makes is clear that the accused of an offence under the Act is to be severally dealt with and that he should not be allowed to be released on bail unless the conditions contained in Section 37 are satisfied. Though the Act specifically does not prohibit the grant of anticipatory bail under Section 438, Cr. P.C., but the legislative intent can be gathered from Section 37 of the Act which restricts the bail even after the arrest of the offender.

The Narcotic Drug and Psychotropic Substances Act, 1985 is a special enactment and was enacted with a view to making stringent provisions for the control and regulation of operation relating to narcotic drugs and psychotropic substances. The under lying object of the Act and the stringent provisions of bail introduced by Act No. 2 of 1989 make it clear that anticipatory bail should not be granted in such cases unless the Court is satisfied that the investigating agency was abusing the provisions of the Act with malafide object to arrest any person. In such cases, the law should be allowed to have its own course."

Section 25 of the Act provides punishment to the owner or occupier or having the control or use of any house, room, enclosure, space, place, animal or conveyance to be used for the commission by any other person of an offence punishable under any provision of this Act."

8. Further the Hon'ble Apex Court in **Anarul SK v. State of West Bengal**[3] at para No.4 observed that the grant of anticipatory bail in cases involving Narcotic Drugs and Psychotropic Substances (NDPS) is a very serious issue

[2] 1995 Supreme(Raj) 935

[3] Crl.A.No.12621 of 2024 dated 19.09.2024

and directed the State to consider as to whether it proposes to file an application for the cancellation of bail granted to the other accused.

9. Therefore, request for grant of pre-arrest bail to the Petitioners/Accused Nos.3 and 4 do not appear to be convincing or reasonable inasmuch as investigation is at a progressive stage. There are no merits in the petition. Hence, the Criminal Petition is devoid of merit and is liable to be dismissed.

10. In the result, the Criminal Petition is dismissed.

As a sequel, Miscellaneous petitions, if any pending, shall stand closed

DR. Y. LAKSHMANA RAO, J

Date: 04.11.2026
RSI

87

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

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