

IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

THE HONOURABLE SMT. JUSTICE K. SUJANA

CRIMINAL PETITION No.668 of 2026

DATE: 06.02.2026

Between:

Nitin Singhaniya

..... Petitioner/A.1

And

The State of Telangana,
Rep. by Public Prosecutor,
High Court for the State of Telangana,
at Hyderabad.

.....Respondent/complainant

: ORDER :

This Criminal Petition is filed praying this Court to enlarge the petitioner on bail who is arrayed as accused No.1 in Crime No.325 of 2025 of Masab Tank Police Station, Hyderabad, registered for the offence punishable under Sections 8(C) read with 22(b)(c), 27(a), 27(A) and 29 of NDPS Act r/w. Section 3(5) of Bharatiya Nyaya Sanhita, 2023.

2. The brief facts of the case are that on 19.12.2025 the Sub-Inspector of Police, Masab Tank, received credible

information regarding illegal sale of narcotic drugs at the parking area of Cha Cha Nehru Park, Masab Tank. It was alleged that the police team, in mufti, apprehended the petitioner and another person at the said place and seized 43.7 grams of Cocaine and 11.5 grams of MDMA from them. The petitioner, however, claimed that he was actually apprehended on 18.12.2025 from Road No.5, Banjara Hills, outside an under-construction building by officials of the Hyderabad Narcotics Enforcement Wing and was illegally detained overnight. It was further stated that on 19.12.2025 he was taken to Cha Cha Nehru Park and falsely shown as apprehended with a bag not belonging to him. The petitioner asserted that no contraband was seized from his possession and relied upon CCTV footage to substantiate the alleged illegal detention.

3. Heard E. Sudhanshu Rao, learned counsel appearing on behalf of the petitioner as well as Sri D. Arun Kumar, learned Additional Public Prosecutor appearing on behalf of the respondent – State.

4. Learned counsel for the petitioner submitted that the arrest date mentioned in the F.I.R. and remand report was falsified and that the petitioner's fundamental rights under Articles 21 and 22 of the Constitution were violated due to

illegal detention beyond 24 hours. He further submitted that the remanding Magistrate and the Sessions Court failed to properly consider the CCTV footage produced by the petitioner, which prima facie establish illegal custody from 18.12.2025 and relied on the judgment of the Hon'ble Supreme in **Directorate of Enforcement V Subhash Sharma**¹. He contended that since the arrest itself is illegal, the rigors of Section 37 of the NDPS Act are not attracted and further the investigation relating to search and seizure is already completed, as such no further custodial interrogation of the petitioner is not required. Therefore, he prayed the Court to grant bail to the petitioner by allowing this Criminal Petition.

5. On the other hand, learned Additional Public Prosecutor opposed the submissions made by the learned counsel for the petitioner stating that the petitioner is a drug peddler. He further submitted that the investigation is in progress and if the petitioner is released on bail, at this stage, he may tamper with the evidence and may threaten the witnesses. Hence, he prayed the Court to dismiss the criminal petition.

6. In the light of the submissions made by both the learned counsel and a perusal of the material available on record, the

¹ 2025 INSC 141

main contention of learned counsel for the petitioner is that there is delay in producing the petitioner before the concerned Magistrate. Petitioner herein was taken into custody on 19.12.2025 at about 15.30 hours at Cha Cha Nehru Park Area, Masab Tank, but according to the remand case diary, petitioner was produced before the concerned Magistrate on 20.12.2025 at about 5.00 p.m. as such there is delay of one hour thirty minutes in producing the petitioner herein before the concerned Magistrate. In **Subhash Sharma's** case the Hon'ble Supreme Court observed that the accused was not produced before the nearest learned Magistrate, the arrest was rendered as completely illegal as a result of the violation of clause 2 of Article 22 of the Constitution of India and arrest gets vitiated on completion of 24 hours in custody. It is the violation of fundamental right to liberty guaranteed under Article 21 of the Constitution of India and requirement of clause 2 of Article 22 has been incorporated in Section 57 of Code of Criminal Procedure. When the fundamental rights of the accused under Article 21 and 22 of the Constitution of India have been violated while arresting the accused or after arresting him, it is the duty of the Court dealing with the bail application to release the accused on bail. In the present case also there is delay of one hour thirty minutes in producing the petitioner before the

concerned Magistrate. As such, the arrest of the petitioner gets vitiated and it becomes illegal custody. Hence, petitioner is entitled for bail subject to the following conditions :

- i. The petitioner/A.1 shall execute a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties for a like sum each to the satisfaction of the Metropolitan Sessions Judge at Hyderabad.
- ii. The petitioner/A.1 shall appear before the concerned SHO between 09.00 a.m and 5.00 p.m., on every Wednesday 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.
- iii. The petitioner/A.1 shall abide by the conditions stipulated in Section 483(2) of the BNSS.

7. Accordingly, the Criminal Petition is allowed.

Miscellaneous petitions, if any, pending shall stand closed.

K. SUJANA, J

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Rds

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