IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HON'BLE SRI JUSTICE B.R.MADHUSUDHAN RAO

CRIMINAL PETITION No.17229 of 2026

(CNR.No. HBHC010723292026)

DATE: 11.11.2026

BETWEEN:

Anthati Vijay Kumar.

.....Petitioner-Accused No.8

And

The State of Telangana,
Through its Public Prosecutor,
High Court for the State of Telangana
at Hyderbad.

...Respondent

ORDER

1. This Criminal Petition is filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') praying this Court to enlarge the petitioner-accused No.8 on bail in connection with FIR.No.15 of 2026 of Rachakonda Narcotics Police Station, Eagle Force, Telangana, registered for the offences punishable under Section 8(c) read with 22(c), 27A, 29 of the NDPS Act, 1985.

2. Heard Mr.Naveen Kumar, learned counsel for the petitioner-accused No.8 and Sri D. Arun Kumar, learned

Additional Public Prosecutor appearing for the respondent–State.

3. Learned counsel for the petitioner submits that the remand case diary of the petitioner-accused No.8 calls him as the source supplier, it is alleged that on the night of 03.08.2026 at about 21:00 hours petitioner-accused No.8 telephoned accused No.3 and told him that good quality of Alprazolam is available with him and that through accused No.7 he supplied 2 kgs to accused Nos.3 and 4. Two remand reports give two different dates for one and the same sale. In the remand report of accused Nos.1 to 7 sale by the petitioner-accused No.8 is few days earlier or about one month earlier, whereas in the remand report of petitioner-accused No.8, it is on the night of 03.08.2026. Petitioner-accused No.8 was not apprehended at the spot of the seizure on 04.08.2026 and that no contraband was recovered from him. Petitioner-accused No.8 was not found with substance and the quantity seized in the crime is 1.189 kgs and it was from accused No.1. Petitioner-accused No.8 is not alleged to have possessed any part of it and the 2 kgs attributed to the petitioner-accused No.8 was never seized, never weighed, never sent for chemical analysis and has never been shown to exist at all. Mobile phone of accused No.3 was in the possession of the Police since 04.08.2026 and the phone of

the petitioner-accused No.8 since 07.08.2026, not a single call data record has been produced to show that call or any call at all between the petitioner-accused No.8 and any other accused. Arrest of the petitioner-accused No.8 is illegal and grounds of arrest were not furnished to him in writing, no arrest intimation memo is given to his relatives. Petitioner-accused No.8 was held from 11:00 hours from 07.08.2026 and his arrest was shown only at 13:30 hours. Petitioner-accused No.8 expressly reserves his right to challenge the arrest and the consequential remand in separate and appropriate proceedings. Petitioner-accused No.8 has filed two bail applications before the Sessions Court, which came to be dismissed on 15.09.2026 and 12.10.2026. Even if the whole of the case of the prosecution is taken to be true, the continued custody of the petitioner-accused No.8 is not required for any purpose connected with the investigation. Police custody of the petitioner-accused No.8 is not taken as on date. Counsel in support of his contention has relied on the decisions in the cases of (i) Union of India v. Shiv Shankar Kesari[1] (ii) State of West Bengal v. Rakesh Singh Alias Rakesh Kumar Singh[2] (iii) Mohd. Muslim @ Hussain v. State (NCT of Delhi)[3] (iv) Vinay Dua v. State Government of NCT Delhi[4]

[1] (2007) 7 SCC 798
[2] (2022) 19 SCC 306
[3] (2023) 18 SCC 166
[4] 2025 SCC OnLine Del 4534

(v) Dalip Singh Alias Langda v. State (NCT of Delhi)[5] and prayed to enlarge petitioner-accused No.8 on bail.

4. Inspector of Police, Rachakonda Narcotics P.S., has filed written instructions dated 26.10.2026. It is stated in the written instructions that custody duration alone does not establish a right to bail without considering statutory requirements, investigation progress and the circumstances of the alleged goal. A pending final report or laboratory analysis does not by itself proves the allegations as false. The petitioner-accused No.8 relies on bail granted to accused Nos.2 and 3 and claims parity, there bail order does not automatically entitle accused No.8 to bail. Prosecution alleges that accused No.8 was a source of supply to accused Nos.3 and 4, while others had different alleged roles in procurement, transport, storage or further distribution. Parity must be assessed by comparing actual roles and evidence not simply because all are accused in the same crime. Prosecution alleges that accused No.8 supplied alprazolam to accused Nos.3 and 4 through accused No.7. Accused No.1 statement mentions Vijay Kumar of Golnaka with mobile number and 1.189 kgs of material described as alprazolam was seized from accused No.1 on 04.08.2026. The prosecution does not ask the Court to make a final finding of guilt at the bail stage. Further, written instructions are filed on

[5] 2019 SCC OnLine Del 6494

04.11.2026, wherein it is stated that no notice under Section 35(3) of the BNSS is issued to the petitioner-accused No.8 prior to his arrest on 07.08.2026.

5. Non-furnishing of grounds of arrest and not giving intimation to the family members will be taken up first. Intimation under Section 48 of the BNSS is given by the Police on 07.08.2026 to his twin brother A.Ajay Kumar, his signature is appearing. Notice to the accused is also given under Section 36 BNSS on 07.08.2026 intimating his arrest on the above said date at 13:30 hours. Petitioner-accused No.8 has signed on the notice. Arrest and surrender memo goes to show that his arrest is made on 07.08.2026 at 13:30 hours which is also signed by the accused. Petitioner-accused No.8 has taken the same defence in Crl.M.P.No.1295 of 2026, the learned Sessions Court having considered the same has dismissed the bail application on 15.09.2026. Petitioner-accused No.8 has filed second bail application before the same Court *vide* Crl.M.P.No.1482 of 2026, the same came to be dismissed *vide* order dated 12.10.2026 that there are no changed circumstances in investigation process.

6.1 Petitioner counsel placed reliance in Dr.Rajinder Rajan v. Union of India and Another[6], the accused therein has taken a specific plea that they were not supplied with the grounds of arrest before taking them into custody in the case and they were enlarged on bail by giving them the benefit of the ratio laid down in Mihir Rajesh Shah v. State of Maharastra and Another[7]

6.2 The decision cited by the petitioner counsel stated supra is not applicable to the case on hand in view of the fact that petitioner-accused No.8 was served with arrest, surrender memo and notice under Section 36 of BNSS and petitioner-accused No.8 was informed of the grounds of arrest while taken into custody.

7. Accused Nos.1 to 6 were arrested and remanded to judicial custody on 04.08.2026. Accused No.7.K.Narendar Goud, Accused No.8-A.Vijay Kumar and Accused No.9-Vishal Goud are shown as absconding.

8. Accused No.1 in his confession stated that he purchased 1 kg of alprazolam from S.Venkatesh Goud-accused No.2 for Rs.6,00,000/-. About 20 days ago Vishal Goud-accused No.9 called his mobile and enquired whether he could arrange alprazolam. He informed Vishal Goud-accused No.9 that he

[6] (2026) 7 SCC 524
[7] (2026) 1 SCC 500

know one person by name S.Venkatesh Goud-accused No.2 who could supply alprazolam at Rs.7,00,000 per kilogram to which he agreed, then contacted S.Venkatesh Goud-accused No.2, who informed him that a few days earlier his friend Ch.Venkatesh Goud-accused No.3 and Prashanth Goud-accused No.4 had purchased 2kgs of alprazolam from one Vijay Kumar-accused No.8 resident of Golnaka, Amberpet, Hyderabad and that they were in possession of the contraband. In the remand report it is also stated that accused No.3-Ch.Venkatesh Goud and accused No.4-K.Prashanth Goud allegedly purchased 2 kgs of alprazolam from accused No.8-A.Vijay Kumar of Golnaka, Hyderabad and accused No.4 further disclosed that the procurement was arranged with the assistance of his brother accused No.7-K.Narender Goud and the contraband was thereafter supplied to accused No.2-S.Venkatesh Goud. Basing on the confession of accused Nos.1, 3 and 4, petitioner-accused No.8 is shown as accused No.8 as absconding. Admittedly, the contraband seized is 1.189 kgs of alprazolam.

9. Learned counsel for the petitioner has drawn the attention of this Court to the counter filed by the prosecution before the learned trial Court that he was served with a notice to appear before the Police on 04.08.2026. The said contentions

is denied by the learned Additional Prosecutor and to that effect written instruction is filed stating that no notice is issued to the petitioner-accused No.8 to appear before the Police on 04.08.2026.

10. Petitioner-accused No.8 is arrested and remanded to judicial custody on 07.08.2026 wherein he was apprehended at 11:00 hours and he has voluntarily confessed of committing this offence. It is stated in the remand case diary that on 03.08.2026 at about 9:00 pm, petitioner-accused No.8 informed accused No.3-Ch.Venkatesh Goud over phone that good quality of alprazolam was available with him, thereafter, through the mediation of accused No.7-K.Narendar Goud, accused No.8 supplied 2 kgs of alprazolam to accused No.3-Ch.Venkatesh Goud and accused No.4-Prashant Goud, who subsequently delivered the contraband to accused No.2-S.Venkatesh Goud for distribution. The statement is basing on the confession of the petitioner-accused No.8.

11. Petitioner-accused No.8 is shown as an accused basing on the confession of accused Nos.1, 3 and 4.

12. In Tofan Singh Vs. State of Tamil Nadu[8], the Supreme Court observed that the confessional statements of the

[8] (2021) 4 SCC 1

co-accused under Section 67 of the NDPS Act will remain inadmissible in the trial of an offence under the NDPS Act.

13.1. In Shiv Shankar Kesari[1], the Supreme Court observed that the court while considering the application for bail with reference to Section 37 of the Act is not called upon to record a finding of not guilty. It is for the limited purpose essentially confined to the question of releasing the accused on bail that the court is called upon to see if there are reasonable grounds for believing that the accused is not guilty-and-records its satisfaction-about the existence of such grounds.

13.2. In Rakesh Singh Alias Rakesh Kumar Singh[2], the Supreme Court observed that being involved in one solitary transaction concerning contraband does not amount to financing illicit traffic in narcotics. The word trafficking connotes continuous flow, and financing illicit traffic means doing so on a regular or continuous basis. Section 27A is not attracted.

13.3. In Mohd. Muslim @ Hussain[3], the Supreme Court observed that while considering bail, the Court is not called upon to record a finding of not guilty and literal reading of the twin conditions would exclude the grant of bail altogether and would result in punitive detention. The conditions can be

applied within constitutional parameters only where the Court is reasonably satisfied, on a prima facie look at the material on record, that the accused is not guilty.

13.4. In Vinay Dua[4], the Supreme Court observed that a statement recorded under Section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the Act, and officers invested with powers under Section 53 are police officers within the meaning of Section 25 of the Evidence Act, so that any confession made to them is barred. Such disclosure statements are inadmissible unless corroborated by independent material.

13.5. In Dalip Singh Alias Langda[5], the Supreme Court observed that where no link-is-established between the accused and the alleged supplier, where the case against him is circumstantial and rests solely upon the disclosure statement of a co-accused which is per se not admissible without corroboration, where mere telephonic conversation with the co-accused is not sufficient to hold him guilty, and where there is no recovery from him, the requirement of Section 37 of the NDPS Act stands satisfied.

14. This Court is of the view that petitioner-accused No.8 is arrested and remanded to judicial custody basing on the

confession statements of accused Nos.1, 3 and 4 and such disclosure statements are inadmissible.

15. Respondent has altogether examined 23 witnesses in support of the case and as per the written instructions inventory is completed on 10.09.2026. Petitioner-accused No.8 has made out a case for grant of bail, subject to the following conditions:

i. The petitioner-accused No.8 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 I Additional District and Sessions Judge, Medchal-Malkajgiri District at Kushaiguda.

ii. The petitioner-accused No.8 shall appear before the concerned SHO between 10 a.m. to 5 p.m., on every Sunday 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. Petitioner-accused No.8 shall not involve in similar offence.

iv. The petitioner-accused No.8 shall abide by the conditions stipulated in Section 437(3) of Cr.P.C.(presently, Section 480(3) of the BNSS).

v. The petitioner-accused No.8 shall not directly or indirectly influence, threaten, or induce any of the prosecution witnesses.

vi. It is made clear that if any of the above conditions are violated, the prosecution is at liberty to file an application for cancellation of the bail.

16. Accordingly, the Criminal petition is allowed.

Miscellaneous applications, if any pending, shall stand closed.

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B.R.MADHUSUDHAN RAO, J

Date: 11.11.2026
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