

THE HON'BLE JUSTICE Dr. V.R.K.KRUPA SAGAR

CRIMINAL PETITION No.5656 of 2024

ORDER:

1. **This** Criminal Petition, under Section 480 and 483 of the BNSS is filed seeking to enlarge the petitioner/A6 on regular bail in connection with Crime No.35 of 2024 of Koyyuru Police Station of Alluri Sitharama Raju District for the offences punishable under sections 20(b)(ii)(C), 25 read with 8(c) of the NDPS Act, 1985.
2. Heard arguments of Sri A.Sai Naveen, the learned counsel for the petitioner and the learned Assistant Public Prosecutor for respondent/ State.
3. On hearing the learned counsel and on perusal of the record, it is seen that this petitioner and other accused were arrested and were remanded to judicial custody on 31.03.2024 and from their possession, 554.73 kgs of Ganja was seized and vehicles in which the contraband was transported and the mobile phones and other articles were all seized. Since then, this petitioner has been in judicial custody. Learned APP submits that the contraband seized is commercial quantity and the offence committed is grave and heinous and investigation is still under progress and the prayer for bail may not be considered.
4. Learned counsel for petitioner submits that the presumptions raised under section 37 of the NDPS Act has to be considered in the light of the procedural safeguards that are provided and in the event of violation of procedure prescribed, the bail can be granted.

5. One of the submissions is based on section 55 of the NDPS Act which provides, the moment, the contraband is seized, it has to be sealed by the seizing officer.

Learned counsel further cited

1. ***Ouseph V. State of Kerala*** ¹

That was a case where the seized contraband was not sealed for nearly two months. It was in such circumstances, their Lordships held that Section 55 of the NDPS Act and its requirements are not mandatory in nature. However when such sealing was not done, it gives rise to possibility to think that what was seized could be tampered. It was in such circumstances, courts are right in entertaining a reasonable doubt. In the case at hand when the record is perused, it is seen that the mediator's report and remand report do not contain packing and sealing of the contraband. That violation gives rise to a clear doubt.

6. Applying the statute and the precedent cited above and considering the length of detention and progress in investigation, this court finds that any continued detention does not seem necessary. Hence, prayer is granted.

7. In the result, this criminal petition is allowed.

The petitioner/A6 shall be enlarged on bail on executing a personal bond for a sum of Rs.30,000/- (Rupees Thirty Thousand only) with two sureties of the like sum each to the satisfaction of the learned Metropolitan Sessions Judge – cum – I Additional

¹(2004) 10 SCC 647

District and Sessions Judge – Special Judge for Trial of Offences under NDPS Act, Visakhapatnam. The petitioner shall mark his attendance before the Investigating Officer on 1st and 15th of every month between 10.00 AM and 1.00 PM till filing of the charge sheet. The petitioner shall make himself available for investigation by a police officer as and when required, and he shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case to dissuade them from disclosing such facts to the Court or to any police officer. He shall not indulge in similar acts of crime.

Dr. V.R.K.KRUPA SAGAR, J

Date: 10.09.2024

Dvs

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