

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NO.3933 of 2021

ORDER:-

This petition is filed under Sections 437 and 439 of Code of the Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking regular bail to the petitioner/ A-2 in connection with Crime No.38 of 2020 of Mothugudem Police Station, East Godavari District for the offence punishable under Section Section 20(b)(ii)(C) r/w Section8 (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity "**NDPS Act**").

2. The case of prosecution is that on 03.09.2020 on credible information about illegal transportation of ganja, the respondent Police rushed to Daralamma Temple, outskirts of Polluru village of Chinturu Mandal and while conducting vehicle check at about 11.00 AM, they found a Bolero pick-up van bearing registration No.AP 24 TB 1550 coming from Donkarai proceeding towards Lakkavaram Junction. On seeing the police, the inmates of the said Bolero van tried to escape from the spot, but the police apprehended them and on search, they found 300 KGs of ganja. The police seized the contraband, registered the crime, arrested the petitioner and remanded him to judicial custody on the same day.

3. Heard Sri G.Venkata Reddy, learned counsel for the petitioner and the learned Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioner/A-2 submits that the petitioner has nothing to do with the alleged offence and in fact, the petitioner was engaged by A-1 on payment of Rs.15,000/- who accompanied him. Further the officer who acted as a gazetted officer while conducting the search and seizure is a veterinary doctor and the said doctor is not a competent person to act as a gazetted officer under Sections 42, 43 and 50 of the NDPS Act. Learned counsel for the petitioner further submits that the entire investigation is completed and the petitioner is languishing in jail from 03.09.2020.

5. On the other hand, the learned Additional Public Prosecutor submits that on 13.10.2020 charge sheet was filed.

6. Taking into consideration the fact that the entire investigation is completed and charge sheet is filed and further the petitioner is languishing in jail from 03.09.2020, this Court deems it appropriate to grant bail to the petitioner. However, on certain conditions.

7. Accordingly, the petitioner/ A-2 shall be enlarged on bail on execution of self bond for Rs.2,00,000/- (Rupees two lakhs only) with two sureties for a like sum each to the satisfaction of the Court of the Additional Judicial First Class Magistrate, Rampachodavaram. On such release, the petitioner shall appear

before the Station House Officer, Mothugudem Police Station, East Godavari District, once in a month till completion of trial.

8. This Court having criminal roster from the last couple of months has noticed that in spite of best efforts by the Registry, there is significant delay in issuing the certified copies of the orders. This Court is conscious of the large number of cases pending before the Court, due to dearth of staff, it is difficult to issue the order copies within a short span of time. In cases, where the accused are entitled for statutory bail as they are languishing in jail for more than 60, 90 and 180 days, when default bail is granted, it was brought to the notice of the Court that there was considerable delay in dispatching the copy of orders. Hence, this Court feels that an alternative mechanism shall be evolved to address the plight of these undertrial prisoners/accused. Recently, the Hon'ble Apex Court has also taken a serious note of this issue.

9. Protection of personal liberty of an individual is undeniably a constitutional duty of this Court. Our criminal justice system always gives paramount consideration to the protection of the rights of the accused. Article 21 of the Constitution of India mandates that the personal liberty of an accused can be curtailed only after strict compliance with the procedure established by law. Sections 438 and 439 of Cr.P.C. ensures that the accused is not deprived of his personal liberty arbitrarily. The Hon'ble Apex Court in catena of cases has held that speedy adjudication process is one of the main facets that

constitute the essence of access to justice and without it, access to justice as a constitutional value will be a mere illusion. Denial of this right undermines public confidence in the justice delivery system. It is also settled law that the right of an accused to have his bail application heard by the Court within a reasonable time has been entrenched as a constitutional liberty. At the same time, disposal of bail application without furnishing the order copy within a reasonable time will not place the accused in a better position. Mere emphasizing that an accused has an indefeasible fundamental right to bail itself is not sufficient without furnishing the copy of the order.

10. This is high time the Courts shall address these issues with a progressive approach by adopting the innovative methods. Recently Andhra Pradesh High Court implemented a procedure whereby the concerned Court Masters are uploading the daily proceedings / orders / judgments on the same day. This Court deems it appropriate to issue the following guidelines.

- (a)** Parties/Advocates shall download the order copy from the High Court's Website along with case details which are available in the case status information.
- (b)** While filing the memo on behalf of accused for furnishing sureties, the Advocate shall State in the memo that he/she has downloaded the order copy from the High Court's Website. The concerned Administrative Officer / Chief Ministerial Officer of the Court shall verify the order from the High Court's Website and make an

endorsement to that effect and then shall place the same before the Court.

- (c)** The Public Prosecutor shall also obtain necessary instructions in this regard and assist the Court.
- (d)** The Presiding Officer on the same day shall dispose of the same and dispatch the release order to the concerned jail authorities forthwith through email or any other electronic mode.
- (e)** In cases of anticipatory bail, the burden to verify the authenticity of the copy is on the concerned Station House Officer and if necessary, he should obtain necessary instructions from the Public Prosecutor's Office and complete the process on the same day expeditiously as per law.
- (f)** Registrar (Judicial) shall communicate copy of this order to (1) The Principal Secretary for Home Affairs, Andhra Pradesh; (2) The Director General of Police, Andhra Pradesh; (3) The Director of Prosecution, who in turn shall sensitize the Police Officers / Station House Officers / Public Prosecutors and ensure implementation of this order.
- (g)** Registrar (Judicial) shall communicate copy of this order to all the Principal District Judges in the State, who in turn shall sensitize all the Presiding Officers and ensure implementation of this order.
- (h)** Registrar (Judicial) is further directed to circulate the copy of this order to all the Bar Associations in the State through the Principal District Judges, so that they can effectively address their clients' cause.
- (i)** Registrar (Judicial) shall also issue a separate notification in this regard and the same shall be displayed in the High Court's Website.

11. This order shall come into force from 26.07.2021.

12. The Judicial Officers in the State shall bring to the notice of the Registrar (Judicial), the issues / hitches, if any, in implementing the directions of this Court. In case of anticipatory bails, the Police Officials shall bring to the notice of the Public Prosecutor, High Court about their difficulties in implementing the orders of this Court and the Registrar (Judicial) and learned Public Prosecutor shall place the same before this Court by the next date of hearing i.e. 31.08.2021.

13. These directions will be in force until further orders or suitable Rules are framed in this regard. It is needless to mention, if any clarification or modification is required for effective implementation, they will be examined accordingly on the next date of hearing.

14. In spite of all odds, determined efforts are required for achieving the goal. Ways and means have to be found out by constant thinking and monitoring. It is the responsibility of all the stakeholders to uphold the public confidence in the justice delivery system by giving timely justice which includes furnishing the copies of orders/judgments.

15. Post on 31.08.2021.

LALITHA KANNEGANTI, J

22nd July, 2021

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