

IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

THURSDAY, THE TWENTY SEVENTH DAY OF MAY

TWO THOUSAND AND TWENTY ONE

: PRESENT:

THE HON'BLE SRI JUSTICE K.LAKSHMAN

CRIMINAL PETITION NOS: 2312, 1320 AND 3152 OF 2021

CRL.P. No. 2312 of 2021

Between:

Boda Suman, S/o. Bavsing

Petitioner/Accused No. 2

AND

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

Respondent/Complainant

Petition under Sections 437 & 439 of Cr.P.C. praying that in the circumstances stated in support of the Criminal Petition, the High Court may be pleased to release the petitioner on bail in Crime No.5 of 2021 on the file of Police Station, Gudur, Mahabubabad District;

CRL.P. No. 1320 of 2021

Between:

1. Bhukya Ramu, S/o Venkati
2. Bhukya Ramesh, S/o. Eerya

Petitioners/Accused No. 3 & 4

AND

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

Respondent/Complainant

Petition under Sections 437 & 439 of Cr.P.C. praying that in the circumstances stated in support of the Criminal Petition, the High Court may be pleased to release the petitioners/Accused No.3 and 4 on bail pending investigation, enquiry and trial in to in Crime No.05 of 2021 of Police Station, Gudur in the interest of justice;

CRL.P. No. 3152 OF 2021

Between:

Chekka Kumaraswamy, S/o. Kommalu

Petitioner/Accused No. 1

AND

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

Respondent/Complainant

Petition under Sections 437 & 439 of Cr.P.C. praying that in the circumstances stated in support of the Criminal Petition, the High Court may be pleased to release the petitioner on bail in Crime No.5 of 2021 on the file of Police Station, Gudur, Mahabubabad District;

These petitions coming on for hearing, upon perusing the Petitions filed in support thereof and upon hearing the arguments of Sri A Prabhakar Rao Advocate for the Petitioner in Crl.P. Nos. 2312 and 3152 of 2021 and Sri J.A. Chandra Sekhar Advocate for the petitioners in Crl.P. No. 1320 of 2021 and Assistant Public Prosecutor for the Respondent in all the above cases, the Court made the following

COMMON ORDER:

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

Criminal Petition Nos.2312, 1320 and 3152 of 2021

COMMON ORDER:

These Criminal Petitions are filed seeking to grant regular bail under Sections 437 & 439 of the Code of Criminal Procedure, 1973 (Cr.P.C.) by the respective petitioners/A.1 to A.4 in the same crime vide Cr.No.5 of 2021 pending on the file of the Station House Officer, Gudur Police Station, Mahabubabad district for the offence under Section 8C read with 20(b)(ii) of the Narcotic Drugs and Psychotropic Substances Act, 1985(for short, the NDPS Act').

2. Heard Sri A.Prabhakar Rao, learned counsel for the petitioners/A.1 and A.2 and Sri Azad Chandra Sekhar, learned counsel for A.3 and A.4 and learned Asst. Public Prosecutor for the respondent – State and perused the record.

3. As per the remand report and also the First Information Report, the allegations against the petitioners herein are that they are transporting 242 kgs., of dry ganja which is more than commercial quantity. The petitioners are in jail from 11.01.2021.

4. Learned Asst. Public Prosecutor, vehemently opposed the bail applications on the ground that the petitioners/A.1 to A.4 are habitual offenders and they have involved in other cases with regard to similar offences. The details of the same are given below:-

Name of the accused	Crime Number & Section of law and name of the Police Station.
A.1: Chekka Kumaraswamy S/o Kommalu 36 years, Mudiraj, Agril, R/o Pandikunta village of Mulugu Mandal and District	Cr.No.180 of 2020 for the offence under Section 8C read with 20(b) of the NDPS Act of Mulugu Police Station.
A.2. Boda Suinan S/o Bawsing, 30 years, Lambada, business, R/o Rallavagudasru thanda, H/o Seethanagaram	<p>1) Cr.No.27 of 2009 for the offences under Sections 379 of IPC of Gudur Police station,</p> <p>2. Cr.No.144 of 2010 for the offence under Section 379 of IPC of Mills colony Police Station,</p> <p>3) Cr.No.125 of 2020 for the offence under Section 8C read with 20(b) of the NDPS Act, of Gudur Police Station.</p>
A.3. Bhukya Ramu s/o Venkati, 37 years, Lambada, auto driver-cum-owner, r/o Rallavagudasru thanda H/o.Seethanagaram	<p>1) Cr.No.182 of 2013 and Cr.No.64 of 2013 for the offence under Section 379 of IPC of Narsampet Police Station,</p> <p>2) Cr.No.260 of 2013 and cr.No.222 of 2013 for the offence under Section 379 of IPC of Ghanpur(Stn) Police Station,</p> <p>3) Cr.No.110 of 2019 for the offence under Section 8C read with 20(b) of the NDPS Act, of Tekulapally Police Station,</p> <p>4) Cr.No.125 of 2020 for the offence under Section 8C read with 20(b) of the NDPS Act of Gudur Police Station.</p>
A.4: Bhukya Ramesh S/o Eerya, 33 years, Lambada, Auto Driver-cum-owner, R/o Rallavagudasru thanda, H/o Seethanagaram.	Cr.No.204 of 2013 for the offence under Section 379 of IPC of Gudur Police Station,

5. Learned counsel for the petitioners herein/A.1 to A.4 would submit that the petitioners are on bail in all the above said crimes. The Investigating Officer has completed investigation in the present crime.

6. Learned Public Prosecutor, on instructions, would submit that the Investigating Officer has recorded statements of 13 witnesses and FSL report is awaited and as and when the Investigating Officer receives FSL report, he will file charge sheet.

7. Learned counsel for the petitioners herein/A.1 to A.4 places reliance on the principle laid down in **Sheru v. Narcotics Control Bureau**¹, wherein a three Judge Bench of the Apex Court, while granting bail to a person in a case filed under the NDPS Act, in view of unusual times of the COVID- 19 pandemic, held as under:-

"We have given a thought to the matter and there is no doubt that the rigors of Section 37 of the N.D.P.S. Act would have to be met before the sentence of a convict is suspended and bail granted and mere passage of time cannot be a reason for the same. However, we are faced with unusual times where the COVID situation permeates. We are also conscious that this Court has passed orders for release of persons on bail to de-congest the jail but that is applicable to cases of up to seven years sentence.

In the given aforesaid facts and circumstances of the case, we consider it appropriate to enlarge the appellant on bail on terms and conditions to the satisfaction of the Trial Court."

8. In view of the said facts and also considering the fact that the petitioners herein/A.1 to A.4 are on bail in other crimes, the Investigating Officer has recorded statements of 13 witnesses, FSL

report is awaited and also considering the principle laid down by the hon'ble Apex Court in **Sheru's case** (4 supra), and the facts that the petitioners herein/A.1 to A.4 are in jail since 11.01.2021, this Court is inclined to grant bail to the petitioners herein/A.1 to A.4.

9. These Criminal Petitions are allowed and the petitioners herein/A.1 to A.4 are directed to be released on bail, subject to the following terms and conditions:-

- (i) The petitioners/A.1 to A.4 shall be released on bail on their executing a personal bond each to the tune of Rs.25,000/- (Rupees twenty five thousand only) with two sureties for a like sum each to the satisfaction of the I Additional Sessions Judge, Warangal,
- (ii) The petitioners herein/A.1 to A.4 shall appear before the Station House Officer, Gudur Police Station, Mahabubabad district, on every Sunday, between 10.00 a.m. and 05.00 p.m. till completion of investigation and filing of final report.
- (iii) The petitioners herein/A.1 to A.4 shall not indulge in any similar type of offences in future. If they are indulged in similar type of offences or involved in any other criminal cases in future, liberty granted to them shall stand cancelled automatically and they would be taken into custody;
- (iv) The petitioners herein/A.1 to A.4 shall not tamper with the prosecution witnesses;
- (v) The petitioners herein/A.1 to A.4 shall co-operate with the investigating agency; and

(vi) (vii) The petitioners herein/A.1 to A.4 shall not misuse the liberty granted to them.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

SD/- T TIRUMALA DEVI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The 1 Additional Sessions Judge, Warangal
2. The Judicial First Class Magistrate, at Narsampet
3. The Superintendent, Central Prison, Warangal
4. The Station House Officer, Gudur Police Station, Mahabubabad District
5. Two CC to Sri A Prabhakar Rao Advocate [OPUC]
6. One CC to Sri J.A. Chandra Sekhar, Advocate (OPUC)
7. Two CC to Public Prosecutor, High Court, Hyderabad (OUT)
8. One spare copy

HIGH COURT

KLJ

DATED:27/05/2021



ORDER

CRLP.Nos.2312, 1320 AND 3152 of 2021

CRLPS. ALLOWED