



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3521]

FRIDAY, THE TWENTY SIXTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION NO: 9598/2025

Between:

ATTHOTI JOHN PAUL, S/O.GIRIBABU, AGE 20 YEARS, R/O.CHEPALA
THUMU CENTER, ETIGATTU, ELURU TOWN, WEST GODAVARI
DISTRICT

...PETITIONER/ACCUSED

AND

THE STATE OF ANDHRA PRADESH, Through Station House Officer
Kunavaram Police station. Rep. by its Public Prosecutor, High Court of
Andhra Pradesh, Respondent/ComplainantAmaravathi, Guntur District.

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner/accused:

KAKUMANU JOJI AMRUTHA RAJU

Counsel for the Respondent/complainant:

PUBLIC PROSECUTOR

The Court made the following:

ORDER:

The Criminal Petition has been filed under Sections 480 and 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for brevity 'the BNSS'), seeking to enlarge the petitioner/Accused No.3 on bail in Cr.No.22/2025 of Kunavaram Police Station, Alluri Sitharama Raju District, registered against the Petitioner/Accused No.3 herein for the offence punishable under Sections 8(c) read with 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity 'the NDPS Act').

CASE OF THE PROSECUTION:

2. Material averments stemming from the prosecution are that, acting upon credible intelligence regarding illicit possession and transportation of narcotic substance, the Sub-Inspector of Police, Kunavaram P.S., along with his team and mediators, conducted a raid at approximately 3:00 p.m., on 16.06.2025 at the outskirts of Polipaka Village, Kunavaram Mandal. During the said operation, Accused Nos.2 and 3 were apprehended while in possession of 21 kilograms of Ganja, which they were transporting on a Scooty motorcycle bearing registration No. AP40AF4943. The contraband is alleged to have been procured from Accused No.1 at Sileru forest area upon solicitation by Accused No.2, with the intent to traffic the substance to their native place for sale to unidentified local individuals, thereby securing illicit monetary gain. The

accused are stated to be habitual offenders engaged in repeated narcotic transportation. Consequent to the arrest, the police effected seizure of the Ganja, valued at approximately Rs.1,05,000/-, along with the vehicle and a mobile phone, all under cover of a Mediators' Report, in adherence to procedural formalities and statutory compliance.

CONTENTIONS OF THE COUNSEL FOR THE PETITIONER:

3. Sri Kakumanu Joji Amrutha Raju, learned Counsel for the Petitioner submits that the Petitioner is innocent and he has been falsely implicated in the alleged offence, and that there is no *prima facie* material or cogent evidence connecting the Petitioner to the commission of the crime. It is further contended that the Petitioner is the sole earning member of his family and that his incarceration would result in grave hardship and irreparable prejudice to his dependents. The Petitioner undertakes to comply with any condition that this Court may deem fit and proper to impose while considering the prayer for grant of bail.

4. It is further submitted that the Petitioner is a permanent resident of Chepala Thumu Center, Etigattu, Eluru Town, West Godavari District and there exists no apprehension of his absconding or evading the due process of law. The Petitioner has extended full cooperation in the course of investigation and undertakes to continue such cooperation in all future proceedings. It is also urged that the nature of the allegations does not necessitate custodial interrogation, and that the imposition of appropriate conditions would suffice to

secure the ends of justice. In view of the foregoing, it is urged to allow the petition.

ARGUMENTS OF THE STATE:

5. *Per contra*, Ms. P.Akhila Naidu, learned Assistant Public Prosecutor has vehemently opposed the prayer for bail, asserting that the investigation is at a nascent and critical stage, with several material witnesses yet to be examined. It is submitted that the premature enlargement of the Petitioner on bail would be inimical to the sanctity and efficacy of the ongoing investigative process and may engender deliberate non-cooperation on the part of the Petitioner. The prosecution further raises an apprehension that, if released, the Petitioner may exert undue influence upon, or intimidate, prosecution witnesses, thereby impeding the administration of justice and vitiating the evidentiary foundation of the case. It is also contended that there exists a palpable and imminent risk of the Petitioner absconding, thereby frustrating the due process of law.

6. In view of the gravity and allegations, coupled with the potential threat posed to the integrity of the investigation, it is submitted that the Petitioner is not entitled to the indulgence of discretionary relief and it is urged to dismiss the present Criminal Petition.

POINT FOR CONSIDERATION:

7. In view of the rival submissions advanced by both the learned Counsel and upon a perusal of the prosecutorial narrative, the pivotal issue now meriting for consideration is:

“Whether the Petitioner is entitled for grant of bail?”

ANALYSIS:

8. Section 36A(4) of ‘the Act’ states that if the investigation is not completed within 180 days, the petitioner/accused No.3 has an indefeasible right to bail, unless the Special Court extends the period up to one year on the report of the Public Prosecutor, indicating the progress of the investigation and specific reasons for the detention of the accused beyond the initial period.

9. The Period of custodial interrogation is completed. The petitioner has been in the judicial custody for the past 102 days, he was arrested on 16.06.2025. The petitioner has got fixed abode. The Petitioner is permanent resident of Chepala Thumu Center, Etigattu, Eluru Town, West Godavari District.

10. The allegation against the Petitioner/Accused No.3 is that he along with other accused indulged in dealing with 21 kgs of Ganja. Above 20 kgs of Ganja is a commercial quantity. However, in the Mediator’s report it was mentioned that the Gazetted Officer and the Investigating Officer on opening the bag noticed that flowers, leaves and stems of Ganja were noticed giving a pungent fragrance.

11. Learned Counsel for the Petitioner submits that if flowers, leaves and stems are taken into consideration the Ganja may not be a commercial quantity. He relied on a judgment of a learned Single Judge of this Court in Crl.P.No.4310/2025 on 14.07.2025 wherein it was observed that the seized material therein not constitute a commercial quantity of Ganja.

12. As per Section 2 (iii) b of 'the NDPS Act' Ganja means:

"Ganja, that is, the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they may be known or designated"

13. In this case, if the flowers, leaves and stems are excluded from the flowering or fruiting tops of the Cannabis plant, then the quantity may not constitute commercial quantity. Petitioner was arrested on 16.06.2025. Inventory is completed but the report is awaited. Five witnesses are witnessed so far. The investigation in so far as the role of the Petitioner is concerned is substantially completed. If the Petitioner is enlarged on bail he could not cause hindrance to the progress of the investigation.

CONCLUSION:

14. Considering the nature and gravity of allegation levelled against the petitioner, his alleged role played in this case, and the period of detention undergone by the petitioner, this Court is inclined to enlarge the petitioner on bail with the following stringent conditions:

- i. The petitioner/Accused No.3 shall be enlarged on bail subject to he executing a bond for a sum of Rs.10,000/-

(Rupees Ten thousand only), with two sureties each for the like sum each to the satisfaction of the learned Judicial First Class Magistrate, Rampachodavaram.

- ii. The petitioner/Accused No.3 shall appear before the Station House Officer, Kunavaram Police Station, Alluri Sitharama Raju District, on every Saturday in between 10:00 am and 05:00 pm, till cognizance is taken by the learned the Trial Court.
- iii. The petitioner/Accused No.3 shall not leave the limits of the State of Andhra Pradesh without prior permission from the Station House Officer concerned.
- iv. The petitioner/Accused No.3 shall not commit or indulge in commission of any offence in future.
- v. The petitioner/Accused No.3 shall cooperate with the investigating officer in further investigation of the case and shall make himself available for interrogation by the investigating officer as and when required.
- vi. The petitioner/Accused No.3 shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the court or to any police officer.

vii. The petitioner/Accused No.3 shall surrender his passport, if any, to the investigating officer. If he claim that he do not have a passport, he shall submit an affidavit to that effect to the Investigating Officer.

15. Accordingly, the Criminal Petition is allowed.

DR. Y. LAKSHMANA RAO, J

Date: 26.09.2025

Note: Issue C.C. by today

B/o

RSI

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL PETITION No.9598 of 2025

Date: 26.09.2025

Note: Issue C.C. by today

B/o

RSI