

APHC010254742025



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

[3396]

MONDAY ,THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 5306/2025

Between:

Killo Subbarao and Others

...PETITIONER/ACCUSED(S)

AND

The State Of Andhra Pradesh

...RESPONDENT/COMPLAINANT

Counsel for the Petitioner/accused(S):

1.ARRABOLU SAI NAVEEN

Counsel for the Respondent/complainant:

1.PUBLIC PROSECUTOR

The Court made the following:

THE HONOURABLE DR JUSTICE VENKATA JYOTHIRMAI PRATAPA

CRIMINAL PETITION NO: 5306 of 2025

ORDER:

This Criminal Petition, under Sections 480 and 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, has been filed by the petitioners/Accused Nos.1 and 2, seeking regular bail, in Crime No.1 of 2025 of G.Madugula Police Station.

2. A case has been registered against the petitioners and others herein for the offence punishable under Sections 20(b)(ii)(C), 25 read with Section 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act').

3. Case of the prosecution, in brief, is that, the petitioners who are husband and wife were caught in possession of 32 kgs of Ganja. They bought Ganja from Odisha for low price and sell the same in Andhra for higher prices. Thereafter, the contraband was seized from their possession.

4. Heard the learned counsel for the petitioners and learned Assistant Public Prosecutor representing the respondent/State. Perused the material on record.

5. Now the point for determination is;

'Whether there are any justifiable grounds to release the petitioners on bail'?

6. Learned Counsel for the Petitioners would submit that the contraband articles which are seized from the possession of petitioners is not a Ganja within the definition under Section 2(iii) (b) and (c) as the leaves, flowers, nuts and stems are excluded from the definition of Ganja and the mandatory provisions are also not followed. The police while weighing the contraband shall separate the leaves, flowers, nuts and stems from flowering tops. Learned counsel would further submit that no adverse presumption under Section 37 of NDPS Act can be justifiably drawn against the petitioners.

7. Learned Assistant Public Prosecutor vehemently opposed for allowing the application since it involves commercial quantity. Hence, prays for dismissal of the present application.

8. As rightly put by the learned counsel for the petitioner, the definition of Ganja under NDPS Act takes in its ambit only the flowering or fruiting tops of cannabis plant and excludes the seeds and leaves when not accompanied by the tops. Thus, the definition of 'Ganja' is restricted and it does not include the seeds and leaves of Ganja plant. As can be seen from the record the police while weighing the contraband did not segregate flowering tops from other material.

9. Considering the submissions made and on perusing the material on record, this Court is inclined to release the petitioners on bail with the following conditions:-

i) The petitioners/Accused Nos.1 and 2 shall be released on bail on executing a personal bond for Rs.20,000/- (Rupees Twenty Thousand only) each with two sureties of the like sum each to the satisfaction of the concerned Magistrate Court;

ii) On release, the petitioners shall appear before the Station House Officer concerned, once in a week i.e., every Sunday between 10:00 AM to 5:00 PM, till filing of the charge sheet;

iii) The petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the present case so as to dissuade him/her from disclosing such facts to the Court or to any investigating or Police Officer.

10. Accordingly, the Criminal Petition is **allowed**.

As a sequel thereto, the miscellaneous applications, if any, pending in this Criminal Petition shall stand closed.

Dr. VENKATA JYOTHIRMAI PRATAPA, J

Date:23.06.2025
SCS

HON'BLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA

Crl.P. No.5306 of 2025

Dated.23.06.2025

SCS