



IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

TUESDAY, THE FOURTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY THREE

:PRESENT:
THE HONOURABLE MS JUSTICE B S BHANUMATHI

CRIMINAL PETITION NO: 37 OF 2023

Between:

1. Sharafat Ali Khan, S/o Minhaz Khan, aged 23 yrs, Muslim, r/at Door. No 19/13, Gandhi Sarak Rishra Hoogly, West Bengal. (A-2)
2. Md. seral, S/o Md. Riyaz Uddin, age 23 yrs, Muslim, r/at Door No 34/4, Gandhi Sarak Rishra Hoogly, West Bengal. (A-3)
3. Md. Samir, S/o Md. Aslam, aged 23 yrs, Muslim, r/at Door. No 7, Gandhi Sarak Rishra Hoogly, West Bengal. (A-5)

Petitioner/Accused

AND

State Represented by the Public Prosecutor, A.P. High Court, Amaravathi
Respondent/Complainant

Petition under Section 437 & 439 of Cr.P.C, is filed praying that in the circumstances stated in the memorandum of grounds filed in support of the Criminal Petition, the High Court may be pleased to consider the same and release the petitioners on bail in Cr.No.113 / 2022 of Special Enforcement Bureau, Circle-IV, Visakhapatnam.

The petition coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri GOLLAPALLI MAHESWARA RAO Advocate for the Petitioners and of PUBLIC PROSECUTOR (AP) for the Respondent, the Court made the following

THE HON'BLE MS JUSTICE B.S.BHANUMATHI

Criminal Petition No.37 of 2023

ORDER:

This Criminal Petition is filed by petitioners/A2, A3 and A5 (Sharafat Ali Khan, Md. Seraj and Md. Samir) under Sections 437 and 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C') seeking regular bail in Crime No.113 of 2022 of Special Enforcement Bureau, Circle-IV, Visakhapatnam District, registered on 02.09.2022 for the offence punishable under Section 8(c) r/w 20(b)(ii)(C) of NDPS Act, 1985.

2. Heard Mrs. Samantha, learned counsel representing Sri. G. Maheswara Rao, learned counsel for the petitioners/A2, A3 and A5 and Sri. P.M. Mithileswara Reddy, learned Assistant Public Prosecutor representing the respondent/State.

3. The case of the prosecution is briefly that on reliable information about transportation of ganja, the personnel of the Special Enforcement Bureau, Circle-IV, Visakhapatnam reached the Visakhapatnam Railway Station and while conducting luggage checking of suspicious passengers, they caught A1 to

A5, having been in possession of 94 kgs of dry ganja and the same was seized under cover of Mediators Report.

4. **Learned counsel for the petitioners submitted that the name of 2nd petitioner/A3 is mistakenly typed in the cause title as Md. Seral instead of Md. Seraj. Verified the same with the FIR and found that the name of the 2nd petitioner/A3 is Md. Seraj.**

5. Learned counsel for the petitioners submitted that more than 180 days elapsed since the date of taking the petitioners into judicial custody i.e., on 02.09.2022. She further submitted that a petition under Section 36 A of NDPS Act has been dismissed by the Special Court.

6. Learned Assistant Public Prosecutor submitted that the petition under Section 36 A of the NDPS Act has been dismissed since it was filed on the 181st day of taking the petitioners into judicial custody. He further submitted that since the petitioners hail from West Bengal State, it is difficult to secure their presence on their release on bail and therefore, requested to impose appropriate conditions.

7. In view of the submissions of both the sides, the petitioners can be enlarged on bail, however, subject to certain conditions.

8. Accordingly, the Criminal Petition is allowed. The petitioners/A2, A3 and A5 (Sharafat Ali Khan S/o.Minhaz Khan, Md. Seraj S/o. Md. Riyaz Uddin and Md. Samir S/o Md. Aslam) shall be released on bail on their furnishing personal bond for a sum of Rs.1,00,000/- (Rupees one lakh only) each with two sureties (one of whom shall be a local) for the like sum each, to the satisfaction of the learned Special Judicial First Class Magistrate for Excise, Visakhapatnam and subject to complying the following conditions:

(i) The petitioners/A2, A3 and A5 are directed to appear before the Station House Officer, Special Enforcement Bureau, Circle IV, Visakhapatnam District, once in a week i.e., on every Sunday between 10:00 AM and 05:00 P.M. starting from the day of their release until further orders or filing of charge sheet, whichever is earlier.

(ii) The petitioners/A2, A3 and A5 shall not directly or indirectly contact or threaten the witnesses under any circumstances and any such attempt shall be construed as an attempt of influencing the witness.

(iii) The petitioners/A2, A3 and A5 shall cooperate with the investigation.

(iv) The petitioners/A2, A3 and A5 shall not leave the jurisdiction without prior permission of the Court concerned.

Pending miscellaneous applications, if any, shall stand closed.

Sd/- P. VINOD KUMAR
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The SHO., The Special Enforcement Bureau, Circle-IV, Visakhapatnam.
2. The Judicial First Class Magistrate for Proh & Excise case, Visakhapatnam.
3. The Superintendent, Central Prison, Visakhapatnam District.
4. One CC to SRI. GOLLAPALLI MAHESWARA RAO Advocate [OPUC]
5. Two CCs to PUBLIC PROSECUTOR (AP) [OUT]
6. One spare copy

ER

HIGH COURT

BSB, J

DATED:14/03/2023

BAIL ORDER

CRLP.No.37 of 2023

ALLOWED

