

[3311]
IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

WEDNESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND TWENTY THREE

: PRESENT:

THE HONOURABLE MS JUSTICE B S BHANUMATHI
CRIMINAL PETITION NO: 564 OF 2023



Between:

1. Mahammad Shahawez, S/o. Zaved Mirja, Aged about. 29 years, Occ. Driver, R/o. D.No.330, Bharampuri, Meerut City, Uttar Pradesh (A-1)
2. Mohd Irshad, S/o. Kale Khan, Aged about. 48 years, Occ. Driver, R/o. D.No.185, St. No.1, Mahidpura, Hapur City, Uttar Pradesh (A-2)

Petitioners

AND

The State of Andhra Pradesh, Rep. by the Public Prosecutor, Through SHO PS Kovvuru Town, W.G. Dist.

Respondent

Petition under Section 437 & 439 of Cr.P.C, praying that in the circumstances stated in the grounds filed in support of the Criminal Petition, the High Court may be pleased to enlarge the petitioners Accused No.1 and 2 on bail in Cr. No. 284 of 2022 of PS Kovvuru Town, pending on the file of the Hon'ble I Addl. Dist and Sessions Judge -cum- Designated Court for the Trial of Cases under NDPS Act, Eluru, on any terms and conditions

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of SRI DUVVURI SURYA NARAYANA Advocate for the Petitioner, and of PUBLIC PROSECUTOR for the Respondent, the Court made the following.

ORDER:

HONOURABLE MS. JUSTICE B.S. BHANUMATHI

Criminal Petition No.564 of 2023

ORDER:

This Criminal Petition under Sections 437 and 439 of the Code of Criminal Procedure, 1973 ('CrPC'), is filed by petitioners/A-1 and A-2 in Crime No.284 of 2022 of Kovvur Town Police Station, registered for the offences punishable under Sections 20 (b) (ii) (c) read with Section 8 (c) of N.D.P.S Act, 1985.

2. Heard the learned counsel for the petitioners/A-1 and A-2 and the learned Special Assistant Public Prosecutor representing the respondent/State.

3. The case of the prosecution, in brief, is that on 26.08.2022, on receipt of credible information, while the Sub-Inspector of Police, Kovvur was conducting vehicle checking on National Highway road at the end of Gaman bridge towards Kovvuru Town at about 4.30 AM, they stopped one Ashok Lay land truck bearing Regd. No.AS-01-NC-2682 coming from Rajahmundry side and found seven persons in possession of 416.50 kgs of Ganja with 18 bags

and seized the same under the cover of mediator's report. All the accused were arrested and sent for judicial custody.

4. Learned counsel for the petitioners submitted that the petitioners are innocent and they have not committed any offence and a false case was foisted against them. He further stated that the petitioners were arrested and remanded to judicial custody on 26.08.2022 and since then they have been languishing in judicial custody for more than 180 days. He further submitted that no charge sheet is filed and therefore, the petitioners are entitled to bail.

5. Learned Assistant Public Prosecutor submitted that the charge sheet has not been filed. He further stated that an application under Section 36A of the NDPS Act, seeking extension of time for investigation is filed just after completion of 180 days and the same was returned by the Special Court. He further submitted that the petitioners are residents of outside the State.

6. In view of the submission on both sides, the petitioners are entitled to bail, however, subject to certain conditions.

7. Accordingly, the Criminal Petition is allowed. The petitioners/Mohammed Shasawez (A-1) and Mohd. Irshad (A-2) 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 for the like sum each, out of which one shall be a local surety, to the satisfaction of the II Additional Junior Civil Judge-cum-II Additional Judicial First Class Magistrate, Kovvur, and subject to complying the following conditions:

- i. The petitioners/A.1 and A.2 shall appear before the Station House Officer, Kovvur Town Police Station on every Monday between 10.00A.M. and 5.00P.M. starting after of their release until further orders or till charge sheet is filed, whichever is earlier.
- ii. The petitioners/A-1 and A-2 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 from disclosing such facts to the Court or to any Investigating or Police Officer;
- iii. The petitioners/A.1 and A.2 shall co-operate with the investigation, and shall not tamper the evidence.

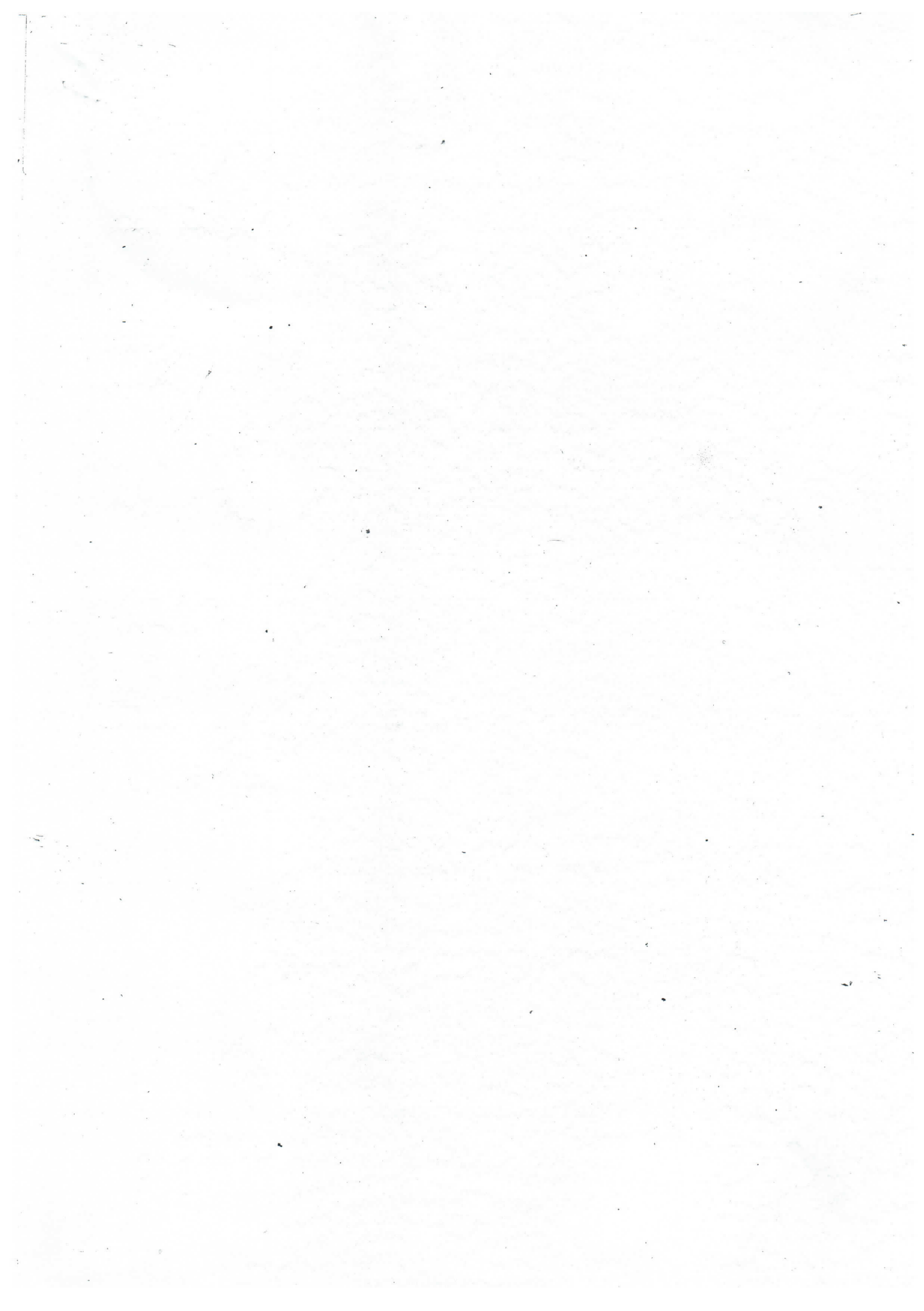
Sd/- M. SRINIVAS
ASSISTANT REGISTRAR

//TRUE COPY//

For SECTION OFFICER

To,

1. The I Addl. Dist and Sessions Judge -cum- Designated Court for the Trial of Cases under NDPS Act, Eluru, West Godavari District
2. The Superintendent, District Prison, Eluru, West Godavari District
3. One CC to SRI DUVVURI SURYA NARAYANA Advocate [OPUC]
4. Two CCs to PUBLIC PROSECUTOR, High Court of AP [OUT]
5. One spare copy



HIGH COURT

BSBJ

DATED:22/02/2023

ORDER

CRLP.No.564 of 2023

ALLOWED

