

Mallikarjuna Rao Alias Nomula ... vs The State Of Andhra Pradesh, on 1 November, 2021

Author: D Ramesh

Bench: D Ramesh

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IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI ~~

MONDAY, THE FIRST DAY OF NOVEMBER, TWO THOUSAND AND TWENTY ONE < "of :

: PRESENT : ee

THE HONOURABLE SRI JUSTICE D, RAMESH -

CRL.P.No. 5859 of 2021 -

Between :-

Mallikarjuna Rao @ Nomula Mallikarjunarao, S/o. Krishnamurthy.

sees Petitioner/Accused No.120

AND

The State of Andhra Pradesh, Rep. by its Public Prosecutor,

High Court Buildings, Amaravath.

Leeae Respondents.

Petition filed under Sections 437 and 439 of. Cr.P.C. praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to release the petitioner/A12 on bail in FIR No. 32

of 2020 on the file of Durgi Police Station, Guntur District pending investigation

and trial in the interest of justice.

The petition coming on for hearing, upon perusing the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri Raja Reddy Koneti, Advocate for the Petitioner and of the Public Prosecutor for respondent/State, the Court made the following

ORDER :

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THE HONOURABLE SRI JUSTICE D. RAMESH Criminal Petition No.5859 of 2021 ORDER:

This Criminal Petition is filed under Sections 437 and 489 of Code of the Criminal Procedure, 1973 (fer short Cr. P.C.) seeking regular bail to the petitioner/A.12 in connection with Crime No.32 of 2020 of Durgi Police Station, Guntur District, for the offences punishable under Section 188, 273, 420 read with 34 of the Indian Penal Code and Section 20 (b) read with 8 {c} of the Narcotic Drugs and Psychotropic Substances Act, 1985 {for brevity "NDPS Act") and Sections 58, 59, 63 of the Food Safety and Standard Act, 2006.

2. The case of prosecution is that on 29.02.2020 at 4 OOP.M., on receipt of credible snformation about illegal possession and transportation of ganja, the Sub-Inspector of Police, Durgi Police Station, on securing staff and mediators, proceeded to the outskirts of Gajapuram village and to the fields of A.1 and A.2 and found a tin shed meant for buffaloes. When Police entered into the shed they found two persons working in an underground room along with some material which is used for preparation of banned tobacco products of gutka and khani- apart from 1.6 Kgs of ganja. Al and A®2, on questioning, confessed that they are preparing tobacco products by mixing ganja in partnership with A3 to AS. Police seized the said material under mediators' report and basing on the confession statements of other accused, the present crime has been registered. The petitioner was arrested on 06.10.2021 and remanded to judicial custody.

3. Heard Sri Raja Reddy Koneti, learned counsel for the petitioner and the learned Assistant Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioner/A.12 submits that except the allegation that other accused who are preparing tobacco products by mixing ganja are selling the same to the petitioners, there is no other allegation against the petitioner. He submits that preparation and selling of tobacco products do not constitute any offence and only to implicate the petitioner in this crime the provisions of NDPS Act are added. He submits that when it is the case of the prosecution that ganja was mixed in the tobacco products, they must have sent the same for chemical examination. He further submits that the petitioner has no criminal antecedents and as he is ready to cooperate with investigation, his case may be considered for grant of bail.

3. On the other hand, learned Assistant Public Prosecutor submits that as the petitioner is purchaser of tobacco products in which ganja is mixed, the offence under provisions of NDPS Act is attracted against him and as investigation is pending, he is not entitled for bail.

6. Taking into consideration the fact that the contraband that is seized from the possession of the petitioners is 1.6 Kgs, 'which is not a commercial quantity, as such, there is no bar under Section 37 of the NDPS Act, and further nothing is placed on record to show that the petitioner is habitual offender, this Court deems it appropriate to grant bail to the petitioner.

7. Accordingly, this Criminal Petition is allowed. The petitioner/A.12 shall be enlarged on bail in connection with Crime No.32 of 2020 of Durgi Police Station, Guntur District, on executing self bond for Rs.50,000/- (Rupees fifty thousand only) with two sureties for a like sum each to the satisfaction of the Court of the Additional Junior Civil Judge, (JFCM) Macherla, Guntur District. On

such release, the petitioner shall appear before the Station House Officer, Durgi Police Station, Macherla Rural Circle, Guntur District, once in a week i.e. on every Saturday between 10.00 AM and 1.00 PM, till filing of charge sheet.

gp/- KJ. RAJA BABU ASSISTANT REGISTRAR / (TRUE COPY// ya SECTION OFFICER To

4. The Special Judge Constituted under Narcotic Drugs and Psychotropic Substances Act-cum-| Additional Sessions Judge, Guntur. oo

2.The Additional Junior Civil Judge, (JFCM), Macherla, Guntur District. o

3. The Station House Officer, Durgi Police Station, Macherla Rural Circle, . Guntur District. «" _--

4. The Superintendent, Sub-Jail, Gurazala, Guntur District. .

5. Two CCs to the Public Prosecutor, High Court of A.P., at Amaravati(OQUT)

6.One CC to Sri Raja Reddy Koneti, Advocate(OPUC)

7.Qne spare copy.

TKK ~ HIGH COURT.

DR.J DT.01-11-2021.

BAIL ORDER ALLOWED