

Kunchanapalli Bala Nagaraju vs The State Of Andhra Pradesh on 3 November, 2021

Author: D. Ramesh

Bench: D. Ramesh

HONOURABLE SRI JUSTICE D. RAMESH

Criminal Petition No.5941 of 2021

ORDER:

This petition is filed under Section 438 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") seeking pre-arrest bail to the petitioners/A10, A11, A15, A19 & A20 in the event of their arrest in connection with Crime No.32 of 2020 of Durgi Police Station, Guntur District, registered for the offences punishable under Sections 188, 273, 420 read with 34 of the Indian Penal Code, 1860 (for short „IPC), Section 8(c) r/w 20(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity „NDPS Act) and Sections 58, 59 and 63 of Food Safety and Standard Act, 2006.

2. The case of prosecution is that on 29.02.2020 on receiving credible information, S.I. of Police Durgi Police Station, along with his staff and mediators went to the fields of A1 and A2 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. A1 and A2, on questioning confessed that they are preparing tobacco products by mixing ganja in partnership with A3 to A5. Police seized the said material under mediators report and basing on the confession statements of other accused, petitioners are arrayed as accused in the above crime.

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

4. Learned counsel for the petitioners 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 petitioners. He submits that preparation and selling of tobacco products do not constitute any offence and only to implicate the petitioners in this crime provisions under 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 submits that crime was registered on 29.02.2020 and in the investigation so far done, nothing is revealed against the petitioners. He further submits that petitioners have no criminal antecedents and as they are ready to cooperate with investigation, their case may be considered for grant of pre-arrest bail.

5. On the other hand learned Assistant Public Prosecutor submits that as the petitioners are purchasers of tobacco products in which ganja is mixed, offence under provisions of the NDPS Act is attracted against them and as investigation is pending, they are not entitled for pre-arrest bail.

6. Taking into consideration the fact that crime was registered on 29.02.2020 but prosecution has not taken any steps to arrest the petitioners as well as the fact that it is not the case of the prosecution that petitioners are absconding and in the investigation so far done, nothing is found to connect the petitioners with the alleged crime, this Court deems it appropriate to grant pre-arrest bail to the petitioners.

7. Accordingly, this Criminal Petition is allowed. The petitioners/ A10, A11, A15, A19 & A20 shall be released on bail in the event of their arrest in connection with Crime No.32 of 2020 of Durgi Police Station, Guntur District on condition of executing self bond for Rs.20,000/- (Rupees twenty thousand only) each with two sureties each for a likesum each to the satisfaction of the Station House Officer, Durgi Police Station, Guntur District.

Consequently, miscellaneous applications pending, if any, shall stand closed.

JUSTICE D.RAMESH 03.11.2021 Vjl HONOURABLE SRI JUSTICE
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