

T.Pradeep Kumar, vs The State Of Andhra Pradesh, on 20 October, 2021

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IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI PS

WEDNESDAY THE TWENTIETH DAY OF OCTOBER

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TWO THOUSAND AND TWENTY ONE

:PRESENT:

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

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CRIMINAL PETITION NO: 5607 OF 2021 |

Between:

4. T.Pradeep Kumar,, S/o. Krishnamurthy, Hindu, aged about 35 years, Rio. 15-19-18/C, Padmasalivari Street, Repalle, Guntur District.

2. Kopuravuri Pavan Kumar,, S/o. Hanumantharao, Hindu, aged about 38 years, R/o.12-17-58, Vinayaka Temple Road, Ward No.6, Repalle, Guntur District.

Petitioner/Accused No. 14 & 15

AND

The State of Andhra Pradesh,, Rep. by its Public Prosecutor, High Court Buildings, Amaravathi.

Respondent/Complainant

Petition under Section 438 of Cr.P.C, praying that in the circumstances stated in the affidavit filed in support of the Criminal Petition, the High Court may be pleased to enlarge the petitioners on bail in the event of their arrest in FIR No.28 of 2020 of

Nagarjunasagar Police Station, Guntur District, in the interest of justice.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri RAJA REDDY KONETI Advocate for the Petitioners and of the PUBLIC PROSECUTOR, High Court of AP for

the Respondent and the Court made the following:

ORDER

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI CRIMINAL PETITION No.5607 of 2021
ORDER:

This petition is filed under Section 438 of Code of Criminal Procedure, 1973 (for short "Cr.P.C") seeking pre-arrest bail to the petitioners/A-14 & A-15 in the event of their arrest in connection with Crime No.28 of 2020 of Nagarjunasagar Police Station, Guntur District, wherein the petitioners are alleged to have committed the offences punishable under Sections 188, 273, 328,420 r/w 34 of the Indian Penal Code, 1860 (for short "IPC")); Section 20 (b) r/w 8 {c} of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "NDPS Act") and Section 57, 58, 63 of the Food Safety and Standards Act, 2006 (for short "FSS Act").

2. The case of the prosecution is that on 25.02.2020 at 4.00 p.m. at Border check post, T-Road Junction, Macherla ~- Hyderabad Highway, petitioners along with other accused indulged in illegal transportation of tobacco products and 9 packets of 100 grams of Ganja. Police seized the contraband under the cover of mediators report. Basing on the same, the present crime was registered.

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

4. Learned counsel for the rietitioners submits that petitioners are innocent and they have not committed any offence and nothing has been seized from the possession of petitioners. He submits that products which are being transported will not fall under the definition as per Section 3{]} of FSS Act. He submits that cigarettes, chewing tobacco, pan masala and chewing material with tobacco are noventese een eet inched in the tobacco products, which are only defined under COTPA and not under FSS Act.

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5. Admittedly, possession of items referred above i.e. Gutka and Khaini, is not an offence punishable under FSS Act. Even to attract the alleged offences, there must be some material to show that those products consist of pcaisonous substances endanger to the life of human being, but no such allegation is found in the entire material on record including the report. Hence, prima facie there is no material against petitioners to establish the ores punishable under Sections 188, 273, 328,420 r/w 34 of IPC; Seettors26=ts-rpw-S~ eke? and Section 57, 58, 63 of FSS Act and the quantity of Ganja found in possession of petitioners is not commercial quantity, as such Section 37 of NDPS Act has no application. Apart from that tobacco products sale or possession is not an offence under FSS Act. Hence, this Court deems it appropriate to grant pre-arrest bail to petitioners.

6. In the result, the criminal petition is allowed and the petitioners/A-14 and A-15 shall be enlarged on bail in the event of their arrest in connection with Crime No.28 of 2020 of Nagarjunasagar Police Station, Guntur District, on their executing each a bond for a sum of Rs.20,000/- (Rupees twenty thousand only) with two sureties each for a likesum to the satisfaction of Station House Officer, Nagarjunasagar Police Station, Guntur District.

As a sequel, all the pending miscellaneous applications shall stand closed.

HTRUE COPY// c To,

1. The Station House Officer, Nagarjuna Sagar Police Station, Guntur District, A-P. (by RPAD)
2. One CC to SRI. RAJA REDDY KONETI Advocate [OPUC]
3. One CC to the PUBLIC PROSECUTOR, High Court of AP [OPUC]
4. One spare copy "MSR A HIGH COURT LKJ DATED:20/10/2021 ORDER CRLP.NO.5607 OF 2021 GLLewen _DIRECTION