

B. Vishnu Vardhan, vs The State Of Adnrha Pradesh, on 20 October, 2021

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATH
WEDNESDAY, THE TWENTIETH DAY OF OCTOBER
TWO THOUSAND AND TWENTY ONE

'PRESENT:
THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NO: 5702 OF 2021

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Between:

B. Vishnu Vardhan, S/o. Varaprasad, Hindu, 32 year, R/o. 2-8, sajjavaripaliem,
alaparru, Gunrur District.

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Petitioner/Accused -16
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 petitioner on bail in the event of his arrest in FIR No. 28 of 2020, dt.

25.02.2020 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 Petitioner and of the PUBLIC PROSECUTOR, High Court of Andhra |

Pradesh for the Respondent and the Court made the following:

ORDER

pon Om THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI CRIMINAL PETITION No.5702
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 petitioner/A-16 in the event of his arrest

in connection with Crime No.28 of 2020 of Nagarjunasagar Police Station, Guntur District, wherein the petitioner is 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 & (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").

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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, petitioner 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 petitioner and learned Assistant Public Prosecutor for respondent-State.

4. Learned counsel for the petitioner submits that petitioner is innocent and he has not committed any offence and nothing has been seized from the possession of petitioner. He submits that products which are being transported will not fall under the definition as per Section 3{j} of FSS Act. He submits that cigarettes, chewing tobacco, pan masala and chewing material with tobacco are a i, te neteag . included in the tobacco products, which are only defined under COTPA and not under FSS Act.

m 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 poisonous 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 jJacie there is no material against petitioner to establish the offences punishable under Sections 188, 273, 328,420 r/w 34 of IPC; Section -20-fbp rf fepof |) sense and Section 57, 58, 63 of FSS Act and the quantity of Ganja found in possession of petitioner 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 petitioner.

a, In the result, the criminal petition is allowed and the petitioner /A-16 shall be enlarged on bail in the event of his arrest in connection with Crime No.28 of 2020 of Nagarjunasagar Police Station, Guntur District, on his executing 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.

=f ASSISTANT REGISTRAR ES TRUE COPY! (by RPAD) One CC to SRI. RAJA REDDY KONETI Advocate [OPUC] One CC to the PUBLIC PROSECUTOR, High Court of AP [OPUC] One spare copy

For SECTION OFFICER . The Station House Officer, Nagarjunasagar Police Station, Guntur District, A.P. HIGH COURT LKJ DATED: 20/10/2021 ORDER CRLP.NO.5702 OF 2021 ALLO EF

- DIRECTION |