

# Vankadari Venkateswara Rao vs The State Of Andhra Pradesh on 12 February, 2021

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IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

FRIDAY, THE TWELFTH DAY OF FEBRUARY, TWO THOUSAND AND TWENTY ONE . coos  
: PRESENT : Maes a ao

THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI

CRL.P.No. 626 Of 2021  
Between:-

Vankadari Venkaeswara Rao, S/o. Subba Rao.  
kees Petitioner/Accused No.2.

AND

The State of A.P., Rep. by Public Prosecutor,  
High Court of A.P., at Amaravati.

sees Respondent.

Petition filed under Sections 437 & 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/A2 on bail in FIR  
No. 43 of 202\on the file of Kanchikacherla Police Station, Krishna District

ae or :  
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 on behalf of respondent/State, the Court made the following

ORDER :

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HONOURABLE SMT. JUSTICE LALITHA KANNEGANTI Criminal Petition No.626 of 2021  
ORDER: » x This Criminal Petition is filed under Sections 437 and 439 of Code of the Criminal  
Procedure, 1973 (for short 'Cr.P.C.') seeking to grant regular bail to the petitioner/A-2 in connection  
with Crime No.43 of 2021 of the Kanchikacherla Police Station, Krishna District for the offences  
punishable under Sections 328, 269, 270, 273 of Indian Penal Code, 1860 (for short IPC),  
Section'5(1) and 22 of Cigarettes and Other Tobacco Products Act, 2003 (For short COTP Act) and

Section 8(c) r/w 20(b) (ii) (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "NDPS Act").

2. The case of prosecution is that on 21.01.2021 at about 5.30 hours on receipt of credible information about illegal possession of Gutkhas/Khainees, the Sub-Inspector of Police, Kanchikacherla Police Station; rushed to near cotton fields in Bypass road leading towards Chevitikallu village from Kanchikacherla and found two persons being stood beside a Bajaj Pulsar motorcycle bearing No.AP-16-FD-5849, 6 bundles and one handbag and on seeing the police, they tried to skulk away and the police apprehended them and on interrogation, they confessed that they purchased gutkhas at Beedar, Karnataka State and ganja material weight about 1.250grams from an unknown person at Vijayawada Railway Station, for selling the same to required persons in uo 2 LK, J Kanchikacherla and surroundings and the police seized the same under the cover of mediator's report and the police arrested the petitioner and remanded to judicial custody.

Basing on the same, the present crime is registered.

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

4. Learned counsel for the petitioner /A-2 submits that transportation of tobacco products is not an offence and the police cannot register the offences under IPC except under Food Safety and Standards Act, 2006. He also submits that in Crl.P.Nos.3718 of 2018 and 5103 of 2019 and batch, this Court has already laid down the ratio and basing on the same, several orders were passed by this Court. He also submits that even assuming that the petitioner has committed the offence under NDPS Act, the quantity that is seized by the police is only 1.250gms which is not a commercial quantity, as such, there is no bar under Section 37 of the NDPS Act to grant bail to the petitioner. He submits that the bail petition which was moved before the Court below was dismissed in Crl.M.P.No.14 of 2021 even without considering the scope of Section 37 of the NDPS Act.

3 LK, J

5. The learned Public Prosecutor submits that transportation of tobacco products is banned in the State of Andhra Pradesh.

6. In view of the fact that the contraband that is seized from the petitioner is only 1.250 grms which is not a commercial quantity, as there is no bar under Section 37 of the NDPS Act, this Court deems it appropriate to grant bail to the petitioner.

7 Accordingly, this Criminal Petition is allowed. The petitioner/A-2 shall be enlarged on bail on his executing personal bond for Rs.50,000/- (Rupees fifty thousand only) with two sureties for a like sum each to the satisfaction of the 1 Additional District and Sessions Judge-cum-Special Judge for trial of offences under NDPS Act Cases, Krishna, at Machilipatnam.

for Sd/-M.Suryanadha Reddy ASSI NT REGISTRAR

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4.The | Additional District and Sessions Judge-cum-Special Judge for Trial of Offences under NDPS Act Cases, Krishna District at Machilipatnam.

2.The Principal Junior Civil Judge, Nandigama, Krishna District.

3. The Station House Officer, Kanchikacherla Police Station, Krishna District.

4.The Superintendent, Sub-Jail, Nandigama, Krishna District.

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

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

7.One spare copy.

LAA HIGH COURT LK.J DT.12-02-2021.

BAIL ORDER RELEASE THE PETITIONER ON BAIL