

Masanam Ramadasu, vs The State Of Andhra Pradesh on 1 February, 2021

MONDAY, THE FIRST DAY OF FEBRUARY,
TWO THOUSAND AND TWENTY ONE
'PRESENT:
THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI
CRIMINAL PETITION NO: 212 OF 2021

Between:

1. Masanam Ramadasu, S/o. Krishna Murthy, Age 40 Years, R/o. Doddadevarapadu Village, Veerulapadu Mandal, Krishna District.
 2. Perumalla Krishna, S/o. Venkateswarlu, Age 38 years, R/o. Dendukuru Village, Madhira Mandal, Khammam District.
- ...Petitioner/A1 & A2

AND

The State of Andhra Pradesh, through Station House Officer, Veerulapadu P.S, Krishna District, rep. by Public Prosecutor, High Court At Amaravati.
...Respondent

Petition under Section 437 & 439 of Cr.P.C, praying that in the circumstances stated in the memorandum of grounds filed in the Criminal Petition, the High Court may be pleased to enlarge the Petitioners/accused No.1 and 2 on bail in Crime No.881/2020 on the file of Veerulapadu P.S, Krishna District.

The petition coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri G Venkata Reddy, Advocate for the Petitioners and Public Prosecutor for the Respondent, the Court made the following.

ORDER

HONOURABLE SMT. JUSTICE LALITHA KANNEGANTI Criminal Petition No.2 12 of 2021
ORDER:

This Criminal Petition is filed under Sections 437 and 439 of Code of the Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking regular bail to the petitioners/A.1 and A.2 in connection with Crime No.881 of 2020 of Veerlapadu Police Station, Krishna District, registered for the offences punishable under Section 328, 269, 270, 271, 273 read with Section 34 of the Indian Penal Code, 1860 and Section 5 (1) and 22 of the Cigarettes and Other Tobacco Products (Prohibition of advertisement And Regulation Of Trade And Commerce, Production, Supply And Distribution) Act, 2003 (COTP Act), read with Section 20 (b) (ii) (C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity "NDPS Act").

2. The case of prosecution is that on 08.12.2020, on receipt of credible information, the Sub-Inspector of Police, Veerulapadu Police Station proceeded towards T. Gopavaram village at Doddadevarapdu village outskirts at about 12.00 P.M., and found two persons on the road and on seeing the police jeep, they tried to run away on their motor cycles bearing Regd.No.AP-16-BV-5706 and TS-04-EQ-5461, but the police apprehended them and on searching their bags, they found 525 packets of Miraj Khaini, 1080 packets of Vimal Pan Masala and 2 Kgs. Ganja total worth of Rs.31,550/- and seized the same under the cover of mediator's report. Basing on the said cd . . Rey .

mediator's report, the preser* crime Is registered.

"oO 2 LK, J

3. Heard Sri G. Venkat Reddy, learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioner/A.1 submits that in so far as the offences under COTP Act are concerned, transportation of tobacco products is not an offence and the police cannot register the offences under the Indian Penal Code, except under the Food Safety and Standards Act. He also submits that this Court, in a batch of cases in Criminal Petition Nos.3718 of 2018 and 5103 of 2019 and batch, has already laid down the ratio and basing on the Same, several orders were passed by this Court. He further submits that in so far as the offences under the NDPS Act are concerned, the contraband that is seized from the possession of the accused is only 2 Kgs, which is not a commercial quantity, and as such, there is no bar under Section 37 of the NDPS Act to grant bail to the petitioner.

5. On the other hand, learned Additional Public Prosecutor submits that transportation of tobacco products is prohibited in the State of Andhra Pradesh. He submits that the investigation is still pending.

6. Taking into consideration the fact that the contraband that is seized from the possession of the petitioners is only 2kgs, which is not a commercial quantity and since there is no bar under Section 37 of the NDPS Act to grant bail to the petitioners, and as nothing is placed on record to show that the © one i To, SP oukwoNn>

3 LK, J petitioners are habitual offenders, this court deems it appropriate to grant bail to the petitioners.

7. Accordingly, this Criminal Petition is allowed. The petitioners/A.1 and A.2 shall be enlarged on bail on their executing personal bond for Rs.50,000/- (Rupees fifty thousand only) each with two sureties for a like sum each to the satisfaction of the Additional Judicial Magistrate of First Class, Nandigama, Krishna District.

Sd/-E.KameswaraRao ween ft REGISTRAR TRUE COPYI! | | _ SECTION OFFICER The Additional Judicial First Class Magistrate, Nandigama, Krishna District. The Superintendent, Sub-Jail, Nandigama, Krishna District The Station House Officer, Veerulapadu Police Station, Krishna District. One CC to Sri G Venkata Reddy, Advocate [OPUC] Two CCs to Public Prosecutor, High Court of Andhra Pradesh. [OUT] One spare copy ° HIGH COURT LKJ DATED: 01/02/2021 ORDER DIRECTION = 9 FEB 2021