

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

FRIDAY, THE TWENTY THIRD DAY OF APRIL TWO THOUSAND AND

TWENTY ONE

:PRESENT:

THE HONOURABLE JUSTICE G SRI DEVI

CRIMINAL PETITION NO: 2382 OF 2021

**Between:**

Tejawath Suresh, S/o. T. Surender.

**Petitioner/Accused No.2**

**AND**

The State of Telangana, Represented by its Public Prosecutor, High Court of Judicature for the State of Telangana at Hyderabad, through S.I. of Police, Bowenpally P.S, Secunderabad

**Respondent/Complainant**

Petition under Section 439 of Cr.P.C, praying that in the circumstances stated in the Criminal Petition, the High Court may be pleased to grant regular bail to the Petitioner in Crime No.368 of 2020 on the file of P.S. Bowenpally, Secunderabad.

The petition coming on for hearing, upon perusing the Petition and the grounds filed in support thereof and upon hearing the arguments of Sri P PRATAP, Advocate for the Petitioner, Asst. PUBLIC PROSECUTOR for the Respondent, the Court made the following.

**ORDER:**

**THE HONOURABLE JUSTICE G. SRI DEVI**

**CRIMINAL PETITION No.2382 of 2021**

**ORDER:**

This Criminal Petition, under Sections 437 and 439 of the Code of Criminal Procedure, 1973, is filed by the petitioner/A2 seeking to grant bail to him in connection with Crime No.368 of 2020 on the file of Bowenpally Police Station, Secunderabad District, registered for the offences punishable under Section 8(c) read with Section 21(C) of NDPS Act, 1985.

2. Heard learned counsel appearing for the petitioner/A2, learned Assistant Public Prosecutor appearing for the respondent-State and perused the record.

3. It is alleged in the remand case diary that on 19.11.2020 at 3.30 PM., the Inspector of Police along with his staff, on credible information, raided Plot No.102, Man Arcade near Reliance Villa, Bowenpally, Secunderabad and seized MD drug weighing about 200 grams in a plastic cover, two mobile phones and other material from the possession of the accused under a cover of panchanama.

4. Learned counsel for the petitioner/A2 submits that the petitioner has been falsely implicated in the present crime and he is no way concerned with the alleged crime. He further submits that the petitioner is a driver of the CAB owned by A1 and he has never indulged in any such crime at any point of time. He further submits that the petitioner was not in possession of any prohibited substance, much less the said narcotic drug. He further submits that this Court has granted bail to A3 and A4, who were alleged to be in possession of 65 grams and 55 grams respectively, and as such, the petitioner's application may be considered on the ground of parity. He further submits that the entire investigation is completed, except filing of the charge sheet and he is ready to furnish sufficient sureties to

the satisfaction of the Court. He also submits that the petitioner was arrested on 19.11.2020 and he has no criminal antecedents. He further submits that the alleged contraband seized from the possession of petitioner/A2 is only little bit higher than the commercial quantity. Hence, he prays to consider the petitioner's application for bail.

5. Relying upon the judgments of the Apex Court in **State of Kerala v. Rajesh<sup>1</sup>**, **Preet Pal Singh v. state of U.P.<sup>2</sup>** and **The State of (GNCT of Delhi) Narcotics Central Bureau v. Chandha<sup>3</sup>**, learned Assistant Public Prosecutor appearing for the State opposed the petition contending that unless satisfied the requirement under Section 37 of NDPS Act, 1985, this Court cannot enlarge the petitioner on bail as a matter of course. He further submits that the FSL report is not yet to be received, but conceded to the fact that the petitioner/A2 is not the habitual offender.

6. In **Sheru v. Narcotics Control Bureau<sup>4</sup>** a three Judge Bench of the Apex Court while granting bail to a person in a case filed under the Narcotic Drugs and Psychotropic Substances Act in view of unusual times of the COVID-19 pandemic, held as under:

"We have given a thought to the matter and there is no doubt that the rigors of Section 37 of the N.D.P.S. Act would have to be met before the sentence of a convict is suspended and bail granted and mere passage of time cannot be a reason for the same. However, we are faced with unusual times where the Covid situation permeates. We are also conscious that this Court has passed orders for release of persons on bail to de-congest the jail but that is applicable to cases of upto seven years sentence.

In the given aforesaid facts and circumstances of the case, we consider it appropriate to enlarge the appellant on bail on terms and conditions to the satisfaction of the Trial Court."

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<sup>1</sup> 2020 (12) SCC 122

<sup>2</sup> 2020 (8) SCC 645

<sup>3</sup> CrI.A.No.257 of 2021 (SLP (CrI.) No.678 of 2021)

<sup>4</sup> CrI.Appeal Nos.585, 586 of 2020, dated 11.09.2020

7. In view of the judgment of the Apex Court in **Sheru's case** (4 **supra**); having regard to the fact that the petitioner is in jail since 19.11.2020 and looking into the nature of allegations leveled against the petitioner/A2 and as the contraband seized from the possession of the petitioner/A2 is only little bit higher than the commercial quantity, also in view of the peculiar conditions of pandemic COVID-19 prevailing in the country, without advertent to the merits of the matter, I am inclined to grant bail to the petitioner/A2.

8. The Criminal Petition is allowed and the petitioner/A2 is directed to be released on bail, subject to the following terms and conditions:

- (i) The petitioner/A2 shall be released on bail on his executing a personal bond to the tune of Rs.25,000/- (Rupees twenty five thousand only) with two sureties for a like sum each to the satisfaction of the XI Additional Chief Metropolitan Magistrate, Nampally, Hyderabad.
- (ii) On such release, the petitioner/A2 shall appear before the Investigating Officer on 1<sup>st</sup> and 3<sup>rd</sup> Saturday between 10.00 AM and 5.00 PM., till completion of investigation and submission of final report.
- (iii) the petitioner/A2 shall appear before the Court concerned personally on each date of hearing till conclusion of trial.
- (iv) the petitioner/A2 shall not indulge in any similar type of activities, in future; If he is indulged in similar type of activities in future, liberty granted to him shall stand cancelled automatically.
- (v) the petitioner/A2 shall not tamper with the prosecution witnesses;
- (vi) the petitioner/A2 shall co-operate with the investigating agency.
- (vii) the petitioner/A2 shall not misuse the liberty granted to him.

9. Miscellaneous applications, if any pending in this criminal petition, shall stand closed.

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SD/- K.SHYLESHI  
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The I Addl. Metropolitan Sessions Judge, Hyderabad.
2. The XI Addl. Chief Metropolitan Magistrate, Nampally at Hyderabad.
3. The Superintendent, Central Prison, Chenchalguda, Hyderabad.
4. The Station House Officer, Bowenpally P.S, Secunderabad
5. One CC to SRI P PRATAP Advocate [OPUC]
6. Two CCs to PUBLIC PROSECUTOR, High Court at Hyderabad. (OUT)
7. One spare copy

mvj

**HIGH COURT**

**GSD,J**

**DATED:23/04/2021**

**ORDER**

**CRLP.No.2382 of 2021**

**BAIL**

