

(2025) 02 AP CK 0781

In the Andhra Pradesh High Court, Amaravati

Case No : Criminal Petition No: 6917 Of 2024

Sanjay P Jain

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 03-02-2025

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 437, 439

Prevention Of Corruption Act, 1988 — Section 13 (1)(d), 13(2), 120B, 201, 411, 420, 467, 468, 471

Citation : (2025) 02 AP CK 0781

Hon'ble Judges : T. Mallikarjuna Rao, J

Bench : Single Bench

Advocate : Kakumanu Joji Amrutha Raju, Sravan Kumar Mannava

Final Decision : Dismissed

Judgement

T Mallikarjuna Rao, J

1. This is the Second Criminal Petition, under Sections 437 and 439 of Cr.P.C., has been filed by the Petitioner/A1, seeking regular bail in C.C.No.4 of 2007 (RC.No.1(E) of 20004 of CBI, Chennai) on the file of Principal Sessions Judge for CBI Cases, Visakhapatnam.

2. The above crime was registered against the Petitioner for the offence punishable under Sections 120B r/w 420, 467, 468, 471, 411 and 201 and Section 13(2) r/w 13 (1)(d) of the Prevention of Corruption Act, 1988.

3. The Prosecution's case, in summary, alleges that the Respondent-State registered a case on 02.01.2004 based on sourced information, accusing the Petitioners/A.1 and 15 others of causing a wrongful loss to the Customs House, Kakinada, amounting to Rs.1,98,78,418/-. The Petitioner, as the Proprietor of M/s. Satyam Implex, Mumbai, purportedly conspired with other Accused individuals at various locations to defraud the Government of India. In furtherance of this conspiracy, the Accused fabricated DEPB (Duty Entitlement Pass Book) licenses

and corresponding Transfer Release Advises by forging the signatures of Customs/ DGFT officials and affixing bogus rubber stamps. Allegedly, transactions were conducted with M/s. Kedia Overseas Limited, Hyderabad, a regular importer of edible oil, purchased seven DEPB licences and other documents from various brokers. As a result, the Customs House, Kakinada, incurred the aforementioned loss of Rs.1,98,78,418/-.

4. The learned counsel representing the Petitioner contends that the Petitioner is innocent and has been falsely implicated in this case; there is no substance to the allegations outlined in the report; Police have completed their investigation and recorded the statements of important witnesses; previously, the Petitioner moved a bail application, viz., CrI.M.P.No.2037 of 2024, which was dismissed by this Court on 07.05.2024; the Petitioner is willing to provide sufficient sureties, maintains a permanent residence, and has family members who depend on him for support. Therefore, the counsel prays for the Petitioner's release on bail.

5. The learned counsel representing the Respondent-State vehemently opposes the grant of regular bail to the Petitioner/A.1 on the ground that the Petitioner is a habitual offender with numerous pending criminal cases against him in the States of Gujarat and Rajasthan and he has been absconding for nearly two decades, which further underscores the risk of his potential flight from justice.

6. I have heard both sides. Learned counsel on both sides reiterated their submissions on par with the contentions presented in the Petition and the report. Consequently, the contentions raised by learned counsel need not be reproduced.

7. All the contentions raised by the Petitioner have previously undergone comprehensive scrutiny during the preceding bail application, culminating in its dismissal by this Court. Hence, the same contentions raised on behalf of the Petitioner and the findings of this Court do not need to be reiterated.

8. Based on the record, the allegations against the Petitioner (A.1) and others indicate that they are responsible for causing wrongful loss to Customs Department, Kakinada, to the tune of Rs.1,98,48,418/-. The crime was duly registered on 02.01.2004. Notably, since the registration of the case, the Petitioner has remained absconded.

9. As already noted, this is the second regular bail application filed on behalf of the Petitioner. It is well settled in law that successive bail applications cannot be entertained unless there has been a substantial change in the circumstances of the case.

10. The learned counsel for the Petitioner contends that the Petitioner has been in judicial custody from 02.01.2024 and further incarceration of the Petitioner is no longer required and the material witnesses were already examined.

11. It is clear that unless there is a significant alteration in the factual circumstances or legal principles necessitating a reconsideration of the previous stance, or if the earlier determination has become obsolete, the second regular

bail application cannot be considered. However, the submissions made by the learned Public Prosecutor suggest that some progress has been made in the trial.

12. This Court dismissed the previous bail application on the ground that the Petitioner is a habitual offender with a string of criminal activities in Gujarat and Rajasthan and despite the extensive efforts by the CBI, the Petitioner managed to stay out of reach for two decades. After twenty long years, he was apprehended with significant difficulty. Given these facts, this Court finds it hard to believe that releasing the Petitioner on bail would ensure his presence during trial. Multiple witnesses have already been examined, and according to the submissions of the learned Public Prosecutor, the trial is expected to conclude within two months. For the reasons indicated above, this Court is not inclined to grant bail at this stage.

13. However, if the trial is not concluded within two months, for reasons not attributable to the Petitioner, the Petitioner is granted the liberty to approach the concerned Sessions Court to file a bail application. Should such an application be made, it goes without saying that the Sessions Court will deal with it in accordance with the well-established legal principles governing the grant of bail.

14. As a result, the Criminal Petition is dismissed, with the Petitioner granted the liberty to approach the Special Court to file a regular bail application after the expiration of two months, in the event the trial remains unconcluded.

Miscellaneous applications pending, if any, shall stand closed.