APHC010709042025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3521]**
(Special Original Jurisdiction)

WEDNESDAY,THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE DR JUSTICE Y. LAKSHMANA RAO

CRIMINAL REVISION CASE NO: 1517/2025

Between:

1. GEMMELI PRASAD RAO,, S/O BONJANNA, AGE 48 YEARS, R/O PUTTURU VILLAGE, LAXMIPETA PANCHAYAT, PEDDABAYALU MANDAL, ASR DISTRICT.
2. ARLABU MATYALINGAM, , S/O RAJANNA AGE 35 YEARSM R/O D.NO. 2-52, KILUMULU VILLAGE PENDABAYALU MANDAL, ASR DISTRICT

...PETITIONER(S)

AND

1. THE STATE OF ANDHRA PRADESH, Rep. by Public Prosecutor, High Court at Amaravati through Station House officer, Pendurty P.S, Visakhapatanam.

...RESPONDENT

Counsel for the Petitioner(S):

1. RAMINENI SUDHEER

Counsel for the Respondent:

1. PUBLIC PROSECUTOR

The Court made the following:

ORDER:

Criminal Revision Case has been filed challenging the order passed by the learned I Additional District and Sessions Judge-cum-Special Judge for Trial of Offences under the NDPS Act, Visakhapatnam in Crl.M.P.No.1295 of 2025 in Cr.No.296/2025 of Pendurty Police Station on 19.12.2025 extending the period of remand up to 210 days from the day they were remanded to judicial custody for the first time.

2. The petitioners were arrested in connection with Crime No.296 of 2025 of Pendurty Police Station, Visakhapatnam Commissionerate, for the alleged offences under the provisions of 'the NDPS Act' and were remanded to judicial custody by the learned Jurisdictional Court.

3. On the 150th day of the remand of the petitioners, the prosecution filed a petition before the learned Trial Court seeking extension of their judicial custody beyond 180 days. The said petition was filed on 27.11.2025 and was allowed on 19.12.2025, thereby extending the remand of the petitioners beyond 180 days and up to 210 days from the date of their first remand.

4. Aggrieved thereby, the petitioners have challenged the order extending their remand passed in Crl.M.P.No.1295 of 2025, vide order dated 19.12.2025, by the learned I Additional District and Sessions Judge-cum-Special Judge for Trial of Offences under the NDPS Act, Visakhapatnam.

5. It is pertinent to note that no order seeking extension of remand was passed by the learned Trial Court on 19.11.2025, nor was any order passed on 20.11.2025. Ultimately, the learned Trial Court passed orders on

29.11.2025 extending the remand up to 250 days. The Hon'ble Apex Court in **Jigar @ Jimmy Pravinchandra Adatiya v. State of Gujarat**[1], at paragraph No.35 held as under:

> *"35. The orders passed by the Special Court of extending the period of investigation are rendered illegal on account of the failure of the respondents to produce the accused before the Special Court either physically or virtually when the prayer for grant of extension made by the Public Prosecutor was considered. It was the duty of the Special Court to ensure that this important procedural safeguard was followed. Moreover, the oral notice, as contemplated by this Court in the case of Sanjay Dutt, was also not given to the accused."*

6. As per **Jigar** *supra*, failure to procure the presence of the Accused either physically or virtually before the Court and failure to inform him that the application made by the Public Prosecutor for the extension of time is being considered not a mere procedural irregularity, it is a gross illegality that violates the fundamental right of the Accused guaranteed under Article 21 of the Constitution of India.

7. In the instant case, the impugned order doesn't reflect that such procedural safeguard contemplated by **Jigar** *supra* was followed. Indeed, the learned Trial Court neither secured the presence of the Accused physically nor virtually nor informed the Petitioners that judicial remand was extended. Therefore, there is violation of Article 21 of the Constitution of India.

8. Be that as it may, even at the time of extension of the remand in any other case either by the Magistrate or by the Trial Court, they cannot mechanically pass extension order of remand. The remand extension has to be informed to the Accused either by securing him physically or virtually. For

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[1]2022 Supreme (SC) 973

the above reasons the Criminal Revision Case is required to be allowed, as there are merits.

9. On a careful perusal of the record, it is evident that while extending the remand up to 210 days, the learned Jurisdictional Court did not inform the petitioners of the extension of remand either virtually or physically. A legal obligation is cast upon the learned Special Court/learned Trial Court to ensure that the procedural safeguards contemplated under Article 21 of the Constitution of India are duly complied with. Even the impugned order does not reflect that the petitioners were informed that their remand was extended beyond 180 days. The learned Trial Court ought to have informed the petitioners about the extension of remand on the very day of passing the order.

10. The impugned order passed by the learned Trial Court is not sustainable in view of the dictum laid down by the Hon'ble Apex Court in **Jigar** *supra*. Hence, the said order is liable to be interfered with and set aside.

11. In the result the Criminal Revision Case are allowed, the impugned order dated 19.12.2025 passed in Crl.M.P.No.1295 of 2025 in Cr.No.296 of 2025 of Pendurty Police Station, Visakhapatnam Commissionerate, on the file of the learned I Additional District and Sessions Judge-cum-Special Judge for Trial of Offences under the NDPS Act, Visakhapatnam, is set aside.

12. The Criminal Revision Case is allowed with the following conditions:

i. The Petitioners/Accused Nos.3 & 4 shall be enlarged on bail subject to him executing a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Rupees Only) with two sureties for the like sum each to the

satisfaction of the learned I Additional District and Sessions Judge-cum-Special Judge for Trial of Offences under the NDPS Act, Visakhapatnam.

ii. The Petitioners/Accused Nos.3 & 4 shall appear before the Station House Officer, Pendurty Police Station, Visakhapatnam Commissionerate on every Saturday in between 10:00 am and 05:00 pm, till cognizance is taken by the learned the Trial Court.

iii. The Petitioners/Accused Nos.3 & 4 shall not leave the limits of the State of Andhra Pradesh without prior permission from the Station House Officer concerned.

iv. The Petitioners/Accused Nos.3 & 4 shall not commit or indulge in commission of any offence in future.

v. The Petitioners/Accused Nos.3 & 4 shall cooperate with the investigating officer in further investigation of the case and shall make himself available for interrogation by the investigating officer as and when required.

vi. The Petitioners/Accused Nos.3 & 4 shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the court or to any police officer.

vii. The Petitioners/Accused Nos.3 & 4 shall surrender their passports, if any, to the investigating officer. If they claim that they do not have a passport, they shall submit an affidavit to that effect to the Investigating Officer.

13. With the above observations and directions, this Criminal Revision Case is allowed. No order as to costs.

As a sequel, interlocutory applications, if any pending, shall stand closed.

Dr. Y. LAKSHMANA RAO, J

Dated:31.12.2025
VTS