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accused during his custodial interrogation which has no evidentiary value in the eyes of law. He further submits that the petitioner is not involved in any other case and he is having clean antecedents. Further, there are 23 prosecution witnesses, out of which, only 04 have been examined till date and petitioner has suffered incarceration of more than 05 months.

4. The learned State counsel has filed custody certificate in the Court today which is taken on record and per contra, opposes the grant of regular bail to the petitioner on the ground that huge quantity of *ganja* was recovered in this case and the complicity of the petitioner was duly established during investigation. Further, as noticed in the impugned order, the petitioner is involved in one more case under the NDPS Act in the State of Telangana.

5. A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

*“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”*

6. After perusing the record of the case with the assistance of the learned State counsel, it transpires that the petitioner is behind the bars since 03.02.2025. The investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court, however, the trial of the case



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has not made much progress as out of 23, only 04 prosecution witnesses have been examined till date. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

7. Keeping in view the law laid down by the Hon'ble Supreme Court of India in 'Prabhakar Tewari Vs. State of U.P. and another' 2020 (1) R.C.R. (Criminal 831) and 'Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another', 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

8. In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Kesamsetti Sankararao, is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

9. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)  
JUDGE

18.07.2025

Neha

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No