

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION No.2173 of 2022

ORDER:

This Criminal Petition is filed under Sections 437 and 439 of Criminal Procedure Code by the petitioners/A2 & A3 in Crime No.117 of 2021 of Chiragpally Police Station, Sangareddy District, registered for the offences punishable under Section 20(b) of the NDPS Act, 1985.

2. The case of the prosecution is that on 16.11.2021, they suspected one lorry which was being driven by one of the petitioners and on search in the said vehicle they found 420 Kgs of Ganja. For the reason of transporting the said Ganja, the petitioners were detained and accordingly investigation was conducted and charge sheet is also filed.

3. Learned Counsel for the petitioners submits that the petitioners are in jail since 208 days and even according to their own showing no knowledge can be attributed to these petitioners who are drivers and driving on the instructions of Accused No.1.

4. Learned Counsel for the petitioners also relied upon the Judgment of Gauhati High Court in ***Lorik Ram v. The State of Assam*** in Bail Appln.No.965/2022, wherein, under similar circumstances, the driver has taken a stand that he drove the

vehicle without knowledge about transporting illegal goods. In the said circumstances, the Gauhati High Court found it appropriate to release the petitioner therein on bail on the finding that rigors of Section 37 of the N.D.P.S. Act was not attracted.

5. In the peculiar facts and circumstances of the case when it is stated by the police that A1 who is the owner had instructed these petitioners/A2 and A3 to park the vehicle at a particular place and leave the said place and thereafter, after loading the alleged contraband they were asked to take the vehicle to another point before which these petitioners were apprehended, would create a doubt regarding the knowledge of petitioners about the contraband and whether knowledge regarding contraband can be attributed to the petitioners or not is a question of trial.

6. In view of the aforesaid circumstances, these petitioners who are drivers and admittedly not present during the alleged loading of the contraband which was done at the instance of Accused No.1 by some others, according to the investigation and charge sheet being filed, these petitioners can be granted bail who are languishing in jail since 208 days. Further according to the learned Public Prosecutor, there are no other cases pending against these petitioners.

7. Accordingly, the petitioners/A2 & A3 are directed to be released on bail on the following conditions.

- i. the petitioners/A2 & A3 are directed to be released on bail on their executing personal bonds for Rs.1,00,000/- (Rupees One Lakh only) each with two sureties for alike sum each, among which one is local surety, to the satisfaction of the I Additional District and Sessions Judge at Sangareddy.
- ii. After release on bail, the petitioners/A2 & A3 shall appear before the Investigating Officer on every Sunday between 10.00 a.m to 5.00 p.m., for a period of three months, apart from appearing on each and every day before the trial court when the case is listed.
- iii. The petitioners/A2 & A3 shall not indulge in any activity attracting penal consequences, failing which the police are at liberty to file petition seeking cancellation of bail.
- iv. The petitioners/A2 & A3 shall comply with the conditions as laid down under Section 437 (3) of Cr.P.C.

8. Accordingly, the Criminal Petition is allowed.

Miscellaneous applications, if any, pending shall stand closed.

10.06.2022
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K.SURENDER, J

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Dt.10.06.2022

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