

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THURSDAY ,THE SIXTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE DR. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION NO: 8741 OF 2022

Between:

Patta Joseph, S/o. P. Robin, Aged 22 years, Occ. IT Employee,
R/o. H.No.8-1-402/B/56, Mini Gulshan Colony, Shaikpet, Near Diamond
Supermarket, Hyderabad.

...Petitioner/Accused No.2

AND

State of Telangana, Represented by Public Prosecutor, TS. High Court,
Hyderabad.

...Respondent/Complainant

Petition under Section 437 and 439 of Cr.P.C praying that in the
circumstances stated in the Memorandum of Grounds of Criminal Petition,
the High Court may be pleased to direct the release of the petitioner on
bail in connection with the Crime No.500 of 2022 on the file of the P.S. SR
Nagar, Hyderabad, pending investigation and trial of the case.

This Petition coming on for hearing, upon perusing the Memorandum
of Grounds of Criminal Petition and upon hearing the arguments of Sri T.
DAMODAR, Advocate for the Petitioner and the Assistant Public
Prosecutor on behalf of the Respondent.

The Court made the following: ORDER

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.8741 of 2022

ORDER:

1. Heard Sri T.Damodar, learned counsel appearing for the petitioner as well as the learned Assistant Public Prosecutor, who is appearing for the Respondent State.
2. Seeking the Court to enlarge the petitioner, who is arrayed as Accused No.2 in Crime No.500 of 2022 of S.R.Nagar Police Station, Hyderabad, on bail, the present Criminal Petition is filed.
3. Learned counsel for the petitioner states that the petitioner has not committed any offence whatsoever and indeed, on completion of investigation, charge sheet is also laid and therefore, the petitioner is entitled for bail. Learned counsel further submits that Accused Nos.3 to 6 were enlarged on bail. Learned counsel also states that the petitioner is in judicial custody since 11.07.2022 and hence, he is entitled for bail.

4. On the other hand, the submission of learned Assistant Public Prosecutor is that the petitioner stands on a different footing and it is the petitioner who had supplied the prohibited drug to the other accused i.e., Accused Nos.3 to 6 and thus, the petitioner cannot be equated with that of Accused Nos.3 to 6.

5. The case of the prosecution as could be perceived through the material available on record is that on 11.07.2022, the petitioner/Accused No.2 procured 50 grams of MDMA Drug from Accused No.1 by paying a sum of Rs.50,000/- and sold 14 grams of the said drug to the customers for higher price and the remaining 36 grams was kept with him for supplying to Accused Nos.3, 4 & 7, who are drug peddlers. As per their plan, Accused Nos.2 to 6 gathered near KCR Classic Apartments, Madhura Nagar, S.R.Nagar, Hyderabad and the petitioner gave 12 grams of MDMA Drug to each of Accused Nos.3 & 4 and he kept the remaining 12 grams of MDMA Drug with him for supplying the same to Accused No.7. When they were ready to leave from that place, they were apprehended by police. The allegations, thus,

projected are grave in nature. As rightly submitted, the petitioner cannot be equated with that of the other accused i.e., Accused Nos.3 to 6.

6. Section 37 of the Narcotic Drugs And Psychotropic Substances, Act, 1985, says that the offences under the said Act are cognizable and non-bailable and it also envisages the special circumstances which have to be taken into consideration for releasing the accused, who is alleged to have committed offences falling within the purview of the said Act, on bail. For a better appreciation, the said provision is extracted as under:

*37. Offences to be cognizable and non-bailable.—
(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for 3 [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail."

7. Therefore, only when the Court is satisfied that there are reasonable grounds for believing that the accused, who moved an application for grant of bail, is not guilty of the offence alleged and that he is not likely to commit any offence while on bail, then only bail can be granted.

8. In the case on hand, *prima facie* material is on record regarding the culpability of the petitioner. Therefore, this Court is not inclined to enlarge the petitioner on bail as prayed for.

9. When a Special Act provides special circumstances to be taken into consideration for granting a right relief, the said provision has to be followed in letter and spirit. Thus, having

regard to the law laid down, and as no justifiable grounds whatsoever are found to enlarge the petitioner on bail, this Court is of the view that the Criminal Petition deserves dismissal.

10. Resultantly, the Criminal Petition is dismissed.

11. Miscellaneous petitions, if any, pending shall stand closed.

SD/-T.KRISHNA KUMAR
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The III Additional Chief Metropolitan Magistrate, Hyderabad.
2. The I Additional Metropolitan Sessions Judge, Hyderabad.
3. The Station House Officer, S.R Nagar Police Station, Hyderabad District.
4. Two CCs to the Assistant Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
5. One CC to SRI. T. DAMODAR, Advocate [OPUC]
6. Two CD Copies
MMK
EDS

Q

HIGH COURT

DATED:06/10/2022

ORDER

CRLP.No.8741 of 2022



DISMISSING OF THE CRIMINAL PETITION

9 Copies
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27/12/22