

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.8941 OF 2022

ORDER:

Heard Sri P.Sriharinath, learned counsel for the petitioners, as well as learned Additional Public Prosecutor, who is representing the respondent-State.

2. This criminal petition is filed under Section 439 of the Code of Criminal Procedure, seeking the Court to enlarge the petitioners, who are arrayed as Accused Nos.4 and 5 in Crime No.176 of 2022 of Miryalaguda I Town Police Station, on bail.

3. Making his submission, learned counsel for the petitioners states that though there is an allegation that totally 380 Kgs. of Ganja was found transported, so far as the present petitioners are concerned, it is the case of the prosecution that only 40 Kgs. of Ganja was found in their vehicle and further, there is no involvement of petitioner No.2/Accused No.5. Learned counsel also states that the petitioners are in judicial custody since 108 days and as the entire investigation is also completed, they may be enlarged on bail.

4. On the other hand, the submission of learned Additional Public Prosecutor is that totally three vehicles were loaded with Ganja and on the directions of Accused No.1, all the three vehicles were proceeding with Ganja in the routes specified and the Police intercepted those vehicles and seized the Ganja.

5. A perusal of the record reveals that petitioner No.2/Accused No.5 accompanied petitioner No.1/Accused No.4 on his instructions. Nowhere, it is indicated that petitioner No.2 had knowledge about the loading of contraband or the understanding between petitioner No.1 and the other accused. Therefore, this Court is of the view that the request of petitioner No.2 can only be honoured, however, conditionally. So far as petitioner No.1 is concerned having regard to the gravity in the allegations and as the twin conditions required under Section 37 of N.D.P.S.Act have to be followed, this Court is of the view that petitioner No.1 is not entitled for bail.

6. Resultantly, the Criminal Petition is allowed in part with the following conditions:

- (i) Petitioner No.2/Accused No.5 shall be enlarged on bail on his executing a personal bond for Rs.50,000/- (Rupees Fifty Thousand only) with two sureties for like-sum each to the satisfaction of the Court concerned. The sureties are directed to submit their two latest passport size photographs at the time of furnishing solvency. One such photograph is ordered to be pasted in the Surety Register against the name of the surety. The other photograph shall be kept in the case record concerned.
- (ii) Petitioner No.2/Accused No.5 shall report before the Station House Officer, Miryalaguda I Town Police Station, on every Monday between 10.30 AM and 12.00 PM, till filing of final report.
- (iii) Petitioner No.2/Accused No.5 should not involve in any unlawful activity.
- (iv) Petitioner No.2/Accused No.5 should afford all assistance for the proper investigation of the case.
- (v) Petitioner No.2/Accused No.5 should not cause the evidence of the offence disappear.
- (vi) Petitioner No.2/Accused No.5 should not tamper with the evidence in any manner.
- (vii) Petitioner No.2/Accused No.5 should not by way of inducement, threat or promise, dissuade any person, who is acquainted with the facts of

the case, from disclosing such facts to the Court or to the Police Officer.

- (viii) In case petitioner No.2/Accused No.5 holds a passport, he shall surrender the same, if the same is not seized till now.
- (ix) Petitioner No.2/Accused No.5 shall not leave India without previous permission of the Court concerned.
- (x) Petitioner No.2/Accused No.5 should ensure his presence whenever required by the Court or Police.
- (xi) Petitioner No.2/Accused No.5 shall file an affidavit before the Court concerned disclosing the following particulars:-
 - (1) Contact number
 - (2) Mail address
 - (3) Residential particulars.

In case, there is any change in the aforementioned details, the petitioner shall intimate the Court concerned by giving a fresh affidavit duly mentioning the change. He shall continue to do so till filing of the final report.

Any deviation of the above conditions would entitle the respondent to take appropriate steps for cancellation of the bail granted.

7. The Criminal Petition, so far as petitioner No.1/Accused No.4 is concerned, stands dismissed.

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

Dr. JUSTICE CHILLAKUR SUMALATHA

Date: 12.12.2022

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