

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.10072 of 2022

ORDER:

1. This Criminal Petition is filed under Section 439 Cr.P.C. seeking the Court to enlarge the petitioner, who is arrayed as Accused No.2 in Crime No.277 of 2022 of Chaderghat Police Station, Hyderabad, on bail.
2. Heard Smt.K.Swathi, learned counsel for the petitioner as well as the learned Additional Public Prosecutor who is representing the Respondent.
3. Learned counsel for the petitioner submitted that as per the version of the prosecution, 66 Kgs of Ganja was seized and indeed, the petitioner is only a driver of the alleged vehicle and no conscious possession of the petitioner is made out. Learned counsel also submitted that the petitioner is in judicial custody since 16.07.2022, i.e. for more than 120 days and having regard to the fact that he was driving the vehicle without having knowledge that the luggage placed in his vehicle is Ganja, he may be enlarged on bail.

4. Per contra, the submission of the learned Additional Public Prosecutor is that exceeding 20Kgs of Ganja, the case falls within the ambit of commercial quantity and as it is found that 66 Kgs of Ganja was present in the vehicle, the relief sought for cannot be granted.

5. The case facts as could be perceived through the material available on record goes to show that the 1st accused was a Distributor of leaf plates. In the year 2020, he bought one Bolero vehicle and got the same registered in the name of his wife. On 15.07.2022, Accused No.3 offered Accused No.1 to deliver Ganja to unknown customers at Metro Station, Malakpet, Hyderabad. He offered a huge commission of Rs.60,000/-. On that Accused No.1 took the Ganja weighing about 66 Kgs and kept the same in the Bolero vehicle along with the leaf plates' bundles. Later, Accused No.1 called the petitioner herein and asked him to drive the Bolero vehicle to deliver the bags. While accused Nos.1 & 2 were going to Malakpet Metro Station, Hyderabad, to supply Ganja, they were apprehended by police.

6. The case facts, as projected, thus reveals *prima facie* justification in the submission of the learned counsel for the petitioner that the petitioner was not aware about the contents of the bags present in the vehicle. However, the truth in the allegations has to be verified basing upon the evidence produced. As of now, there are no *prima facie* allegations that are directed against the petitioner. Hence, this Court is of the view that his request for grant of bail can be honoured, however, conditionally.

7. Resultantly, the Criminal Petition is allowed with the following conditions:-

- (i) The petitioner/Accused No.2 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) The petitioner/Accused No.2 shall report before the Station House Officer, Chaderghat Police Station, Hyderabad, on every Monday between 10.30 AM and 12.00 PM till filing of final report.
- (iii) The petitioner/Accused No.2 should not involve in any unlawful activity.
- (iv) The petitioner/Accused No.2 should afford all assistance for the proper investigation of the case.
- (v) The petitioner/Accused No.2 should not cause the evidence of the offence disappear.
- (vi) The petitioner/Accused No.2 should not tamper with the evidence in any manner.
- (vii) The petitioner/Accused No.2 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 the petitioner/Accused No.2 holds a passport, he shall surrender the same if the same is not seized till now.

- (ix) The petitioner/Accused No.2 should ensure his presence whenever required by the Court or Police.
- (x) The petitioner/Accused No.2 shall file an affidavit before the Court concerned disclosing the following particulars:-
- (1) Contact number
 - (2) Mail address
 - (3) Residential particulars.
- (xi) The petitioner/Accused No.2 shall not leave India without previous permission of the Court concerned.

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.

Dr. JUSTICE CHILLAKUR SUMALATHA

Date: 30.11.2022

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