

**HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA**

**CRIMINAL PETITION No.10339 of 2022**

**ORDER:**

1. Heard Sri M.Amarnath, learned counsel for the petitioner as well as the learned Additional Public Prosecutor who is representing the Respondent-State.

2. This Criminal Petition, under Section 439 Cr.P.C., is filed seeking the Court to enlarge the petitioner, who is arrayed as Accused No.3 in Crime No.183 of 2022 of Hussainialam Police Station, on bail.

3. Learned counsel for the petitioner states that nothing is seized from the possession of the petitioner and therefore, the petitioner is entitled for bail. Learned counsel further states that the petitioner is in judicial custody since '169' days.

4. On the other hand, the submission of the learned Additional Public Prosecutor is that total 102 Kgs of Ganja was seized from the possession of the accused which exceeds commercial quantity and therefore, the petitioner is not entitled for bail.

5. On that, learned counsel for the petitioner brought to the notice of this Court the contents of the Remand Report wherein there is a clear mention that 102 Kgs of Ganja and one Swift Dzire car were seized from the possession of Accused No.1. Though it is mentioned that Accused No.1, the petitioner and other two accused were travelling in the car where the contraband was present, for the reasons best known, the Investigating Agency made a clear mention that the seizure was from the possession of Accused No.1.

6. Having considered the said aspect and also the length of period of custody of the petitioner, this Court is of the view that the petitioner is entitled for bail. The petitioner will not fall within the ambit of Section 37 of the Narcotic Drugs and Psychotropic Substances Act as there are no direct allegations against him. Hence, the request of the petitioner can be honoured, however, conditionally.

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

- (i) The petitioner/Accused No.3 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.3 shall report before the Station House Officer, Hussainialam Police Station, on every Monday between 10.30 AM and 12.00 PM till filing of final report.
- (iii) The petitioner/Accused No.3 should not involve in any unlawful activity.
- (iv) The petitioner/Accused No.3 should afford all assistance for the proper investigation of the case.
- (v) The petitioner/Accused No.3 should not cause the evidence of the offence disappear.
- (vi) The petitioner/Accused No.3 should not tamper with the evidence in any manner.

- (vii) The petitioner/Accused No.3 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.3 holds a passport, he shall surrender the same if the same is not seized till now.
- (ix) The petitioner/Accused No.3 should ensure his presence whenever required by the Court or Police.
- (x) The petitioner/Accused No.3 shall not leave India without previous permission of the Court concerned.
- (xi) The petitioner/Accused No.3 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.

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**Dr. JUSTICE CHILLAKUR SUMALATHA**

Date:19.12.2022  
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