

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION Nos.10622, 11002 and 11283 of 2022

COMMON ORDER:

Heard Ms. P.Nithya Nageswari, learned counsel for the petitioner, as well as learned Additional Public Prosecutor who is representing the respondent-State.

2. These Criminal Petitions are filed under Section 438 Cr.P.C. for grant of pre-arrest bail. The applicant, who is common in all the Criminal Petitions, is arrayed as accused No.4 (though narrated as accused No.2 in Criminal Petition) in Crime No.280 of 2021 of Malakpet Police Station, Hyderabad, as accused No.6 in Crime No.386 of 2021 of Amberpet Police Station, Hyderabad and as accused No.2 in Crime No.468 of 2021 of Afzalgunj Police Station, Hyderabad.

3. Learned counsel for the petitioner states that petitioner has not committed any offence whatsoever and there is no material that is available with Police to show that the petitioner has committed any offences attracting the provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985. Learned counsel submits that all the three cases were registered against the petitioner only basing

on the confessional statements of the other accused and the said confessional statements are invalid in the eye of law and except those confessional statements, there is nothing on record to show that the petitioner is involved in the offences. Learned counsel also submits that the cases were registered only to harass the petitioner and therefore, anticipatory bail may be granted.

4. On the other hand, learned Additional Public Prosecutor submits that the petitioner is the supplier of ganja and in all the three cases, the other accused stated the same thing and therefore, cases were registered against the petitioner also.

5. When the material brought on record in all the three Criminal Petitions is perused, this Court finds justification in the submission of the learned counsel for the petitioner that all the three cases were registered against the petitioner basing on the confessional statements of the co-accused.

6. Learned Additional Public Prosecutor failed to bring anything to the notice of this Court to hold that the petitioner is involved in any other offences of similar nature or any

other offences attracting either I.P.C. or other enactments. Further, learned Additional Public Prosecutor failed to bring to the notice of this Court anything with regard to the non-applicability of Section 438 Cr.P.C. to the Narcotic Drugs and Psychotropic Substances Act, 1985. Admittedly, the alleged confessional statements cannot be taken into consideration. Except those alleged confessional statements, there is no other incriminating material on record against the petitioner. Therefore, this Court is of the view the request of the petitioner can be honoured, however conditionally.

7. Resultantly, all the three Criminal Petitions are allowed.

(i) The petitioner is directed to surrender before the Courts concerned within ten (10) days. On such surrender, he shall be enlarged on bail on his executing a personal bond for Rs.50,000/- (Rupees Fifty thousand only) with two sureties for the like sum each to the satisfaction of the Courts concerned in each case. 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) In case, the petitioner holds a passport, he is directed to surrender the same.

(iii) The petitioner should not involve in any unlawful activity.

(iv) The petitioner should afford all assistance for proper investigation of the cases.

(v) The petitioner should not cause the evidence of the offence disappear.

(vi) The petitioner should not tamper with the evidence in any manner.

(vii) The petitioner 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 Courts concerned or to the Police Officer.

(viii) The petitioner should ensure his presence whenever required by the Courts concerned or Police.

(ix) The petitioner shall not leave India without previous permission of the courts concerned.

(x) The petitioner shall report before the Station House Officer, Afzalgunj Police Station, Hyderabad, on every Monday and Thursday between 10.30 a.m. and 12.00 p.m. till filing of the final reports in all the three cases.

(xi) The petitioner shall file affidavits before the courts 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 courts concerned by giving fresh affidavits duly mentioning the change. He shall continue to do so till filing of the final reports.

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

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

Dr. JUSTICE CHILLAKUR SUMALATHA

21.12.2022
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