

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.11393 of 2022

ORDER:

Heard Sri M.Amarnath, learned counsel for the petitioners, as well as 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 petitioners, who are arrayed as accused Nos.1 and 2 in COR.No.96 of 2022 of Excise Police Station, Balanagar, on bail.

3. Making his submission, learned counsel for the petitioners contends that as per the version of the prosecution, 2.197 kgs of ganja was seized from the possession of petitioner No.1-accused No.1 and nothing was seized from the possession of petitioner No.2-accused No.2 and petitioner No.1-accused No.1 is in judicial custody since 60 days and petitioner No.2-accused No.2 is in judicial custody since 48 days. Learned counsel also states that the contraband seized from the possession of petitioner No.1-accused No.1, even as per the version of the prosecution, is

below commercial quantity and therefore, the petitioners may be enlarged on bail.

4. On the other hand, the submission of the learned Additional Public Prosecutor is that petitioner No.1-accused No.1 is involved in a similar other case i.e., a case in COR.No.71 of 2022 of Balanagar Police Station, wherein 13 kgs and odd ganja was seized from his possession. Learned Additional Public Prosecutor also submits that two witnesses were examined till now.

5. Having considered the submission thus made, this Court is of the view that the request of petitioner No.1-accused No.1 cannot be honoured. However, as the submission of the learned counsel for the petitioners that nothing was seized from the possession of petitioner No.2-accused No.2 is not disputed, this Court considers it desirable to allow this Criminal Petition so far as petitioner No.2-accused No.2 is concerned, however conditionally.

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

- (i) Petitioner No.2/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 the 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) In case, petitioner No.2/accused No.2 holds a passport, he is directed to surrender the same, if it is not seized by now.

(iii) Petitioner No.2/accused No.2 should not involve in any unlawful activity.

(iv) Petitioner No.2/accused No.2 should afford all assistance for proper investigation of the case.

(v) Petitioner No.2/accused No.2 should not cause the evidence of the offence disappear.

(vi) Petitioner No.2/accused No.2 should not tamper with the evidence in any manner.

(vii) Petitioner No.2/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) Petitioner No.2/accused No.2 should ensure his presence whenever required by the Court or Police.

(ix) Petitioner No.2/accused No.2 shall not leave India without previous permission of the court concerned.

(x) Petitioner No.2/accused No.2 shall report before the Station House Officer, Excise Police Station, Balanagar, on every Monday between 10.30 a.m. and 12.00 p.m. till filing of the final report.

(xi) Petitioner No.2/accused No.2 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 stands dismissed so far as petitioner No.1-accused No.1 is concerned.

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

Dr. JUSTICE CHILLAKUR SUMALATHA

29.12.2022
DR