

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.557 of 2023

ORDER:

Heard Sri S.V.Akarsh, learned counsel, who argued on behalf of Sri N.Abhishek, learned counsel on record for the petitioner, as well as the learned Additional Public Prosecutor who is representing the respondent-State.

2. This is an application filed under Section 438 Cr.P.C. for grant of pre-arrest bail. The petitioner, who is arrayed as accused in COR.No.98 of 2022 of Excise Police Station, Zaheerabad, has moved the present Criminal Petition.

3. The allegation that is levelled against the petitioner is that he was found moving in the agricultural land in question and when he was chased, he ran away and the agricultural land was thoroughly searched and the excise officials found 52 ganja plants.

4. Making his submission, learned counsel for the petitioner contends that the land in question does not belong to the petitioner and indeed, there is no material on record to show in what survey number the search was conducted and where the alleged ganja plants were found and uprooted.

Learned counsel further submits that in the absence of any *prima facie* proof about the involvement of the petitioner, he cannot be arrested. As the excise officials are trying to apprehend the petitioner, he may be granted pre-arrest bail.

5. On the other hand, the submission of the learned Additional Public Prosecutor is that 52 ganja plants were uprooted by the excise officials in the agricultural land in question.

6. Learned Additional Public Prosecutor did not state the exact place where the search was conducted and at least the boundaries of the said land. The particulars of the place where the search was conducted are not stated even in the panchanama. Therefore, this Court is unable to hold that there is *prima facie* case against the petitioner. However, it cannot be concluded that the petitioner is not involved in the alleged offence. As of now, there is no material which entitles the court to negative the request of the petitioner. Therefore, this Court is of the view that the request of the petitioner can be considered, however conditionally.

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

- (i) The petitioner/accused is directed to surrender before the Court concerned within ten (10) days. On such surrender, he shall be enlarged on bail on his executing a personal bond for Rs.30,000/- (Rupees Thirty 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, the petitioner/accused holds a passport, he is directed to surrender the same.
- (iii) The petitioner/accused should not involve in any unlawful activity.
- (iv) The petitioner/accused should afford all assistance for proper investigation of the case.
- (v) The petitioner/accused should not cause the evidence of the offence disappear.
- (vi) The petitioner/accused should not tamper with the evidence in any manner.

(vii) The petitioner/accused 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) The petitioner/accused should ensure his presence whenever required by the Court or Police.

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

(x) The petitioner/accused shall report before the Station House Officer, Excise Police Station, Zaheerabad, on every Monday between 10.30 a.m. and 12.00 p.m. till filing of the final report.

(xi) The petitioner/accused 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.

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

Dr. JUSTICE CHILLAKUR SUMALATHA

27.01.2023
DR