

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.722 of 2023

ORDER:

1. This Criminal Petition is filed under Section 439 read with 167(2) Cr.P.C. for grant of statutory bail. The person who moved this application is the one who is arrayed as Accused No.1 in Crime No.277 of 2022 of Chaderghat Police Station.
2. Heard Sri Nazeeruddin Khan who is representing Sri S.Nagesh Reddy, learned counsel on record for the petitioner as well as the learned Additional Public Prosecutor who is representing the Respondent-State.
3. As per the version of the prosecution, the petitioner is found transporting 66 Kgs of Ganja.
4. Making his submission, learned counsel for the petitioner contends that the case was registered and the petitioner was apprehended on 16.07.2022 and till now, charge sheet is not laid and therefore, an indefeasible right accrues on part of the petitioner to be released from judicial custody.

5. As per the provisions of the Code of Criminal Procedure, the investigation has to be completed within 24 hours and in case the investigation is not completed within 24 hours, the concerned Police is under obligation to produce the person apprehended before the nearest Magistrate. Thereafter, in all cases where the offence is punishable below ten years, no order of detention be issued exceeding 60 days and in all other cases not beyond 90 days. As per Section 36C of the Narcotic Drugs and Psychotropic Substances Act, except where specific procedure is laid down regarding the proceedings to be conducted, including bails, in all other proceedings, the Cr.P.C. would apply. No where in Narcotic Drugs and Psychotropic Substances Act it is laid down that Section 167 Cr.P.C. is not applicable. However, under Section 36A(4), the word '90' days which is mentioned under Section 167(2) has to be read as 180 days. Learned counsel states that though 180 days is completed, no final report is filed till now. Under the said provision, atleast an application has to be moved by the investigating agency for extension of time. In case such application is moved, time

can be extended for one year. However, in the case on hand, learned counsel states that no such application is forwarded. Learned Additional Public Prosecutor did not deny the fact that even on expiry of 180 days, no final report is filed till now. Therefore, as rightly submitted by the learned counsel for the petitioner, an indefeasible right accrues on part of the petitioner to be enlarged on bail. Therefore, this Court considers desirable to honour the request of the petitioner, however, conditionally.

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

- (i) The petitioner/Accused No.1 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.1 shall report before the Station House Officer, Chaderghat Police Station on every Monday between 10.30 AM and 12.00 PM till filing of final report.
- (iii) The petitioner/Accused No.1 should not involve in any unlawful activity.
- (iv) The petitioner/Accused No.1 should afford all assistance for the proper investigation of the case.
- (v) The petitioner/Accused No.1 should not cause the evidence of the offence disappear.
- (vi) The petitioner/Accused No.1 should not tamper with the evidence in any manner.
- (vii) The petitioner/Accused No.1 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.1 holds a passport, he shall surrender the same if the same is not seized till now.

- (ix) The petitioner/Accused No.1 should ensure his presence whenever required by the Court or Police.
- (x) The petitioner/Accused No.1 shall not leave India without previous permission of the court concerned.
- (xi)The petitioner/Accused No.1 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.

Dr. JUSTICE CHILLAKUR SUMALATHA

Date:03.02.2023

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