

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.1018 of 2023

ORDER:

Heard Sri M.Phanindra Bhargav, learned counsel for the petitioner, as well as the learned Additional Public Prosecutor who is representing the respondent-State.

2. This Criminal Petition is filed under Section 439 Cr.P.C. seeking the Court to enlarge the petitioner, who is arrayed as accused No.6 in NDPS.SC.No.219 of 2022 which is pending on the file of the Court of Metropolitan Sessions Judge, Ranga Reddy District at L.B.Nagar, on bail.

3. Making his submission, learned counsel for the petitioner contends that the petitioner is a driver by profession and at request of the other accused, he acted as driver and he is not involved either in collection or transportation of the contraband ganja. Learned counsel submits that the petitioner is physically challenged by 72% and he is in judicial custody since 255 days and further, the petitioner is a student and his entire career would be spoiled in case, he is kept in judicial custody for a further period and therefore, he may be enlarged on bail.

4. On the other hand, the learned Additional Public Prosecutor states that having knowledge about the material that is assigned for transportation, the petitioner, as driver, agreed to transport the same and therefore, the petitioner is not entitled for bail.

5. The contents of the charge sheet goes to show that the petitioner was engaged for transportation of ganja. However, whether the petitioner was transporting the said material having knowledge about the nature of material he was asked to transport is a fact to be decided after receiving the evidence produced by both sides before the trial court.

6. Having considered the role of the petitioner as narrated in the charge sheet and further, taking into consideration the submission of the learned counsel for the petitioner and also making an observation that Section 37 of the Narcotic Drugs And Psychotropic Substances Act, 1985, cannot be applied *stricto sensu* in this case, this Court is of the view that the request of the petitioner can be honoured, however conditionally.

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

- (i) The petitioner/accused No.6 shall be enlarged on bail on his executing a personal bond for Rs.75,000/- (Rupees Seventy five 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 No.6 holds a passport, he is directed to surrender the same, if it is not seized by now.
- (iii) The petitioner/accused No.6 should not involve in any unlawful activity.
- (iv) The petitioner/accused No.6 should not cause the evidence of the offence disappear.
- (v) The petitioner/accused No.6 should not tamper with the evidence in any manner.
- (vi) The petitioner/accused No.6 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.

(vii) The petitioner/accused No.6 should ensure his presence whenever required by the Court or Police.

(viii) The petitioner/accused No.6 shall not leave India without previous permission of the court concerned.

(ix) The petitioner/accused No.6 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.

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

08.02.2023
dr