

**HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA**

**CRIMINAL PETITION No.2313 of 2023**

**ORDER:**

1. Heard Smt.Anuradha Challa, learned counsel for the petitioner as well as the learned Additional Public Prosecutor who is representing the Respondents.
2. Seeking post-arrest bail, the present Criminal Petition is filed under Section 439 Cr.P.C. for enlargement of the petitioner, who is arrayed as Accused No.4 in Crime No.987 of 2022 of Hayathnagar Police Station.
3. Stating that the petitioner, who is a Driver by profession, had no knowledge about the material that he was asked to transport, learned counsel for the petitioner contends that the petitioner is in judicial custody since '179'days. Learned counsel also states that the petitioner studied upto II standard and he is a Driver by profession and he is the sole bread winner of the family and therefore, he may be enlarged on bail.
4. On the other hand, the submission of the learned Additional Public Prosecutor is that the petitioner was engaged by Accused No.3 to transport Ganja and the

petitioner was apprehended while he was transporting huge quantity of Ganja. Learned Additional Public Prosecutor also stating that on completion of investigation, charge sheet is laid, forwarded the copy of the charge sheet.

5. The contents of the charge sheet goes to show that Accused No.3 was not in the habit of disclosing to the drivers the material that was required to be transported. Though, as per the contents of the charge sheet, Accused No.3 offered the petitioner to transport Ganja from Agency area of Visakhapatnam of Andhra Pradesh State to Mumbai, the contents of the charge sheet further reveals that Accused No.2 loaded Ganja in the DCM Van not at agency area of Visakhapatnam, but at Nidadavolu of Andhra Pradesh State. There is no denial that the petitioner/Accused No.4 was working as Driver under Accused No.3.

6. Having considered all these aspects which create a cast of suspicion with regard to the knowledge on part of the petitioner herein about the nature of material he was asked to transport, this Court is of the view that the request of the petitioner can be honoured, however, conditionally.

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

- (i) The petitioner/Accused No.4 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.4 should not involve in any unlawful activity.
- (iii) The petitioner/Accused No.4 should not cause the evidence of the offence disappear.
- (iv) The petitioner/Accused No.4 should not tamper with the evidence in any manner.
- (v) The petitioner/Accused No.4 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.

- (vi) In case the petitioner/Accused No.4 holds a passport, he shall surrender the same if the same is not seized till now.
- (vii) The petitioner/Accused No.4 should ensure his presence whenever required by the Court or Police.
- (viii) The petitioner/Accused No.4 shall not leave India without previous permission of the Court concerned.
- (ix) The petitioner/Accused No.4 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.

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**Dr. JUSTICE CHILLAKUR SUMALATHA**

Date:13.03.2023

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