

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.2673 of 2023

ORDER:

Heard Sri Gajanand Chakravarthi, learned counsel for the petitioners, as well as learned Additional Public Prosecutor who is representing the respondent-State.

2. Seeking pre-arrest bail, the present Criminal Petition is filed under Section 438 Cr.P.C. on behalf of the petitioners, who are arrayed as accused Nos.4 and 10 in Crime No.14 of 2023 of Narnoor Police Station, Adilabad District.

3. The facts of the case in brief, as could be perceived through the contents of Part-I Case Diary, are that the Special Investigating Police, on receiving credible information, proceeded to Harithavanam park, Narnoor, and found three persons. However, accused No.1 was caught and on enquiry, he informed that he along with others, out of whom one is petitioner No.1, purchased 100 grams of dry ganja and later, one accused by name Yuvaraj purchased 20 grams of ganja from petitioner No.2 for the purpose of consumption.

4. Learned counsel for the petitioners states that the petitioners have not committed any offence whatsoever and

nothing was seized from the possession of the petitioners. Learned counsel also submits that petitioner No.1 is a student and petitioner No.2 is a young man of 20 years old and therefore, anticipatory bail may be granted.

5. The submission of the learned Additional Public Prosecutor is that the case is still under investigation. Learned Additional Public Prosecutor did not state that the investigating agency collected any other material apart from the alleged confessional statement of accused No.1 with regard to the involvement of the petitioners in the crime in question. Further, the submission of the learned Additional Public Prosecutor is that twenty (20) witnesses were examined till now.

6. The rigor of Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, cannot be applied to the facts of the case on hand.

7. Having regard to the submissions made, this Court is of the view that the request of the petitioners can be honoured, however conditionally.

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

- (i) The petitioners/accused Nos.4 and 10 are directed to surrender before the Court concerned within ten (10) days. On such surrender, they shall be enlarged on bail on each of them 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, the petitioners/accused Nos.4 and 10 hold passports, they are directed to surrender the same.
- (iii) The petitioners/accused Nos.4 and 10 should not involve in any unlawful activity.
- (iv) The petitioners/accused Nos.4 and 10 should afford all assistance for proper investigation of the case.
- (v) The petitioners/accused Nos.4 and 10 should not cause the evidence of the offence disappear.

(vi) The petitioners/accused Nos.4 and 10 should not tamper with the evidence in any manner.

(vii) The petitioners/accused Nos.4 and 10 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 petitioners/accused Nos.4 and 10 should ensure their presence whenever required by the Court or Police.

(ix) The petitioners/accused Nos.4 and 10 shall not leave India without previous permission of the court concerned.

(x) The petitioners/accused Nos.4 and 10 shall report before the Station House Officer, Narnoor Police Station, Adilabad District, on every Sunday and Thursday between 10.30 a.m. and 12.00 p.m. till filing of the final report.

(xi) The petitioners/accused Nos.4 and 10 shall file separate affidavits 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 petitioners shall intimate the court concerned by giving fresh separate affidavits duly mentioning the change. They 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

31.3.2023
DR