

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.2649 of 2023

ORDER:

Heard Sri V.S.R.M.V.Prasad Sanaka, learned counsel for the petitioner, as well as the learned Additional Public Prosecutor who is representing the respondent-State.

2. Seeking the Court to enlarge the petitioner, who is arrayed as accused No.5 in Crime No.92 of 2022 of Kodakandla Police Station, on bail, the present Criminal Petition is filed under Section 439 Cr.P.C.

3. Stating that the petitioner is innocent, learned counsel for the petitioner contends that no contraband whatsoever was seized from the possession of the petitioner and further, there is no incriminating material against him and therefore, he may be enlarged on bail.

4. On the other hand, the submission of the learned Additional Public Prosecutor is that accused Nos.1 to 4 purchased 200 kgs of ganja from the petitioner. Learned Additional Public Prosecutor also states that after arrest of accused Nos.1 to 4, the petitioner was taken into judicial custody on 19.10.2022. Learned Additional Public Prosecutor

further states that on completion of investigation, charge sheet is laid.

5. As per the version of the prosecution, the petitioner along with other accused has committed the offence punishable under Section 8(c) r/w 20(b)(ii) of the Narcotic Drugs and Psychotropic Substances Act, 1985.

6. A perusal of the relevant material that is brought on record, more particularly, a copy of the charge sheet that is produced by the learned Additional Public Prosecutor reveals absence of any other incriminating material against the petitioner except the alleged confessional statements of accused Nos.1 to 4. Further, no criminal antecedents in respect of the petitioner are projected.

7. Having perceived these facts, this Court is of the view that the request of the petitioner can be honoured, however conditionally.

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

- (i) The petitioner/accused No.5 shall be enlarged on bail on his 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 petitioner/accused No.5 holds a passport, he is directed to surrender the same, if it is not seized by now.

(iii) The petitioner/accused No.5 should not involve in any unlawful activity.

(iv) The petitioner/accused No.5 should not cause the evidence of the offence disappear.

(v) The petitioner/accused No.5 should not tamper with the evidence in any manner.

(vi) The petitioner/accused No.5 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.5 should ensure his presence whenever required by the Court or Police.

(viii) The petitioner/accused No.5 shall not leave India without previous permission of the court concerned.

(ix) The petitioner/accused No.5 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.

Dr. JUSTICE CHILLAKUR SUMALATHA

31.3.2023

dr