

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.3906 of 2023

ORDER:

1. Heard Sri A.Prabhakar Rao, learned counsel for the petitioner as well as the learned Additional Public Prosecutor who is representing the Respondent-State.
2. Seeking post-arrest bail, the present Criminal Petition is filed under Section 439 Cr.P.C. on behalf of the petitioner, who is arrayed as Accused No.2 in Crime No.922 of 2022 of Medchal Police Station.
3. Making his submission, learned counsel for the petitioner contends that the petitioner has not committed any offence and having regard to the criminal antecedents of the petitioner, the petitioner is implicated in a false case. Learned counsel also states that earlier application moved by the petitioner was dismissed on the ground of pendency of investigation and as the entire investigation is completed, the petitioner is entitled for bail. Learned counsel also states that no contraband, whatsoever, was seized from the possession of the petitioner.

4. The submission of the learned Additional Public Prosecutor, on the other hand, is that Accused No.1 confessed that the person present along with him and who absconded on seeing Police is the petitioner herein and basing on the said confessional statement, Accused No.2 was arrested. Learned counsel for the petitioner submits that the confessional statement of co-accused is invalid in the eye of law.

5. Learned Additional Public Prosecutor did not bring to the notice of this Court any other incriminating material, except the alleged confessional statement of Accused No.1 to connect the petitioner with the crime.

6. The allegation that is levelled against the petitioner is that the petitioner, along with Accused No.1, was found transporting 30 Kgs of Ganja.

7. As no connecting material is shown by the prosecuting agency regarding the involvement of the petitioner in the alleged crime except the alleged confessional statement of Accused No.1, which according to the submission of the learned counsel for the petitioner

is invalid in the eye of law and admittedly as Police have not seized any contraband from the possession of the petitioner, this Court is of the view that the request of the petitioner can be honoured, however, conditionally.

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

- (i) The petitioner/Accused No.2 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.2 shall report before the Station House Officer, Medchal Police Station, on every Monday between 10.30 AM and 12.00 PM till filing of final report.
- (iii) The petitioner/Accused No.2 should not involve in any unlawful activity.

- (iv) The petitioner/Accused No.2 should afford all assistance for the proper investigation of the case.
- (v) The petitioner/Accused No.2 should not cause the evidence of the offence disappear.
- (vi) The petitioner/Accused No.2 should not tamper with the evidence in any manner.
- (vii) The petitioner/Accused No.2 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.2 holds a passport, he shall surrender the same if the same is not seized till now.
- (ix) The petitioner/Accused No.2 should ensure his presence whenever required by the Court or Police.
- (x) The petitioner/Accused No.2 shall not leave India without previous permission of the Court concerned.

(xi) The petitioner/Accused No.2 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:27.04.2023

ysk

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No. 3906 of 2023

Date:27.04.2023

ysk