

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

**CRIMINAL PETITION No.3830 of 2023**

**ORDER:**

1. Heard Sri J.Abhishek, learned counsel who argued on behalf of Sri B.Shiva Chandra, learned counsel on record for the petitioner as well as the learned Additional Public Prosecutor who is representing Respondent Nos.1 & 2.
2. Seeking pre-arrest bail, the present Criminal Petition is filed under Section 438 Cr.P.C. on behalf of the petitioner, who is arrayed as Accused No.3 in COR.No.28 of 2023 of Prohibition and Excise Station, Bhadrachalam.
3. The matrix of the case as could be perceived through the contents of the Panchanama is that basing on the information received by the Prohibition and Excise officials, they, along with independent witnesses, proceeded to the place which is located near Temple arch, Prohibition and Excise checkpost, Godavari Bridge and started inspecting the vehicles. They noticed vehicle bearing Registration NO.TS16UA6754 coming very fast from Bhadrachalam side. The vehicle was stopped and was inspected and

Police found ten covers containing 2 Kgs of Ganja in each, totaling to 20 Kgs. The persons present in the car disclosed their identity particulars and they are Accused Nos.1 & 2.

4. Stating that the petitioner is innocent, learned counsel for the petitioner submits that the petitioner was arrayed as one of the Accused as the vehicle in question stands in the name of the petitioner. Learned counsel also states that the alleged vehicle was sold by the petitioner on 26.01.2023 itself. Learned counsel placed his reliance upon the document mentioned as “Vikrayapatramu”. Learned counsel submits that when the vehicle was already sold, the person who loses possession of such vehicle, on such sale, cannot be arrayed as Accused. Learned counsel placed reliance upon the decision of the High Court of Andhra Pradesh at Hyderabad which is reported in **Chepuri Nageswara Rao and Another Vs. Station House Officer, Rolugunta P.S., Visakhapatnam District and State rep. by Public Prosecutor<sup>1</sup>**.

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<sup>1</sup> 2014 SCC Online AP 1548

5. The submission of the learned Additional Public Prosecutor is that as the vehicle stood in the name of the petitioner, he is arrayed as Accused and the case is still under investigation.

6. When the contents of Panchanama are meticulously perused, this Court finds absence of any mention about the participation of the petitioner herein. Learned Additional Public Prosecutor also failed to state that any mention is made by Accused Nos.1 & 2 regarding the participation of the petitioner in the alleged crime or that he handed over the alleged vehicle for the purpose of transportation of Ganja or any other contraband.

7. Thus, having considered these aspects, however, expressing no opinion with regard to the culpability of the petitioner in certain and as the investigation is still in progress, this Court is of the view that the request of the petitioner can be honoured, however, conditionally.

8. In the result, the Criminal Petition is allowed with the following conditions:

- (i) The petitioner/Accused No.3 is directed to surrender before the concerned Court within ten (10) days. On such surrender, he shall be enlarged on bail on his executing a personal bond for Rs.1,00,000/- (Rupees One Lakh 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.3 shall report before the Station House Officer, Prohibition and Excise Station, Bhadrachalam, on every Monday, between 10.30 A.M. and 12:00 P.M., till filing of final report.
- (iii) The petitioner/Accused No.3 should not involve in any unlawful activity.
- (iv) The petitioner/Accused No.3 should afford all assistance for proper investigation of the case.
- (v) The petitioner/Accused No.3 should not cause the evidence of the offence disappear.

- (vi) The petitioner/Accused No.3 should not tamper with the evidence in any manner.
- (vii) The petitioner/Accused No.3 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.3 holds a passport, he shall surrender the same.
- (ix) The petitioner/Accused No.3 should ensure his presence whenever required by the Court or Police.
- (x) The petitioner/Accused No.3 shall not leave India without previous permission of the Court concerned.
- (xi) The petitioner/Accused No.3 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 of the aforementioned details, the petitioner shall intimate the Court concerned by giving 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 pre-arrest bail granted.

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**Dr. JUSTICE CHILLAKUR SUMALATHA**

Date:25.04.2023  
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