

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

**CRIMINAL PETITION No.11735 of 2022**

**ORDER:**

Heard Smt. Munira, learned counsel representing Sri Syed Jaweed Abbas Nadeem, learned counsel on record for the petitioner, Sri V.T. Kalyan, learned counsel representing learned Standing Counsel for Revenue Intelligence as well as learned Special Public Prosecutor.

2. This Criminal Petition is filed under Section 439 Cr.P.C. seeking the court to enlarge the petitioner on bail, who is arrayed as accused No.2 in S.C.No.129 of 2021 which is pending before the Court of I Additional District and Sessions Judge, Malkajgiri.

3. The case of the prosecution in brief as could be perceived through the material available on record is that on 10.12.2020, on receipt of credible information by the Directorate of Revenue Intelligence, the concerned officers procured independent witnesses and proceeded to a place near Sree Bakery, Alwal, Secunderabad. They noticed one person coming on a two wheeler. The said person stopped his vehicle opposite to Sree Bakery. After few minutes another person came in an Auto Rickshaw. He got down

and met the person who came on a two wheeler and received a white colour plastic package from him. Immediately, the officers intercepted the above two persons and enquired. The person who came on a two wheeler is accused No.1 and the person who came in the Auto Rickshaw is the petitioner herein i.e., accused No.2. On interrogation, they revealed that the baggage contains Mephedrone. Also basing on the information furnished by them, the Officers along with accused Nos.1 and 2 proceeded to M/s Sri Anjaneya Engineering Works, Jeedimetla, Hyderabad and they conducted raid. The contraband that was found being exchanged from accused No.1 to the petitioner herein is 3156 grams of Mephedrone.

4. Contending that nothing was seized from the physical possession of the petitioner, learned counsel for the petitioner states that accused No.1 and the petitioner herein moved separate applications for grant of bail and this Court through common order in those applications, directed the trial Court to complete a trial within a period of four (4) months, but till now there is no progress.

5. Learned counsel referred to the common order of this Court in Criminal Petition Nos.4094 and 4639 of

2022 dated 29.06.2022 (By Sri Justice K. Surender).  
Learned counsel further states that this Court granted bail in favour of accused No.1 and he was released and the petitioner stands on the same footing or on a better footing and therefore, he may be enlarged on bail.

6. Also stating that the accused is entitled for bail even if the contraband seized exceeds commercial quantity, learned counsel for the petitioner relied upon the following decisions of the Honourable Apex Court in

1. Criminal Appeal No.245 of 2020 between **Chitta Biswas Alias Subhas vs. The State of West Bengal** dated 07.02.2020.
2. S.L.P.(C) No.5769 of 2022 between **Nitish Adhikary @ Bapan vs. The State of West Bengal** dated 04.05.2022.
3. S.L.P.(C) No.4173 of 2022 between **Shariful Islam @ Sarif vs. The State of West Bengal** dated 22.03.2022.
4. S.L.P.(C) No.4789 of 2022 between **Gopal Krishna Patra @ Gopalrusma vs. Union of India** dated 25.01.2022.
5. S.L.P.(C) No 5530 of 2022 between **Mohammad Salman Hanif Shaikh vs. The State of Gujarat** dated 27.04.2022.

7. Disputing the submission made by the learned counsel for the petitioner and stating that the petitioner is not entitled for the relief sought for, learned Standing

Counsel submits that small quantity of Mephedrone as per Narcotic Drugs and Psychotropic Substances Act, 1985 is 2 grams and the commercial quantity is 50 grams but totally 3.156 kgs of Mephedrone was seized from the possession of the petitioner.

8. Learned Standing Counsel also states that accused No.1 was enlarged on bail having considered his health condition and also considering the submission of the learned counsel for accused No.1 who argued in that Criminal Petition that accused No.1 will not survive for long in the light of the health condition, and therefore, the analogy applied to accused No.1 cannot be applied to the petitioner herein.

9. This Court totally agrees with the submission of the learned Standing Counsel. Also the allegations that are levelled against the petitioner are grave in nature. As per the version of the prosecution, accused No.1 was handing over the contraband to the accused No.2 and at that time the officers of Revenue Intelligence intercepted and took those persons to custody. Therefore, it cannot be held that nothing was seized from the physical possession of accused No.2. Though the learned counsel for the petitioner also

argued in respect of other merits of the case, they cannot be decided at this stage that too while dealing with the bail application without there being any substantive material available on record in the form of evidence. Further having considered the gravity in the case, non-disposal of the case time bound by the trial Court cannot also be taken into consideration.

10. Resultantly, Criminal Petition is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed

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**Dr. JUSTICE CHILLAKUR SUMALATHA**

Date: 17.02.2023

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83

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