

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.11848 of 2022

ORDER:

1. This Criminal Petition, under Section 439 Cr.P.C., is filed seeking the Court to enlarge the petitioners, who are arrayed as Accused Nos.1 & 2 in Crime No.121 of 2022 of Rural Police Station, Warangal, on bail.

2. Heard Sri T.Sunny Kumar, learned counsel for the petitioners as well as the learned Additional Public Prosecutor who is representing the Respondent-State.

3. Making his submission, learned counsel for the petitioners states that the petitioners were unaware of the material that was present in the bags which were in their possession on the date of incident and indeed, the petitioners hail from a very poor background and were working as coolies. Learned counsel states that on the instructions of Accused No.3, the petitioners accepted to carry the bags without having knowledge that those bags contain contraband and even the version of the prosecution is to the same effect. Learned counsel further submits that the petitioners are in judicial custody since 07.09.2022 and the

entire investigation is also completed and charge sheet is laid and therefore, they may be enlarged on bail.

4. On the other hand, the submission of the learned Additional Public Prosecutor is that the contraband i.e. Ganja of 40Kgs was seized from the possession of the petitioners herein.

5. As per the contents of the charge sheet, the petitioners were doing coolie work for their livelihood. Having considered the financial difficulties of the petitioners, Accused No.3 suggested them to accompany him to Bhadrachalam. Therefore, they accompanied him. After reaching Bhadrachalam, Accused No.3 asked the petitioners to wait at a particular place. A day later, Accused No.3 brought two big bags containing Ganja and handed over those bags to the petitioners herein. Later, all of them boarded a bus at Bhadrachalam and reached Warangal. Thereafter, all of them went to Warangal Railway Station and were waiting to board a train to go to New Delhi. At that time, Accused No.3 left the petitioners by informing them that he would get lunch for them. Thereafter, police, on suspicion, questioned them and seized those bags containing Ganja.

6. The version as projected in the charge sheet strengthens the submission made by the learned counsel for the petitioners so far as the participation of the petitioners is concerned. Admittedly, even as per the version of the prosecution, the petitioners were not taken to the place where the Ganja was procured or that the bags containing Ganja were opened at any time in the presence of the petitioners by Accused No.3. Therefore, the possibility of the petitioners getting knowledge about the material present in those bags is highly doubtful.

7. Having considered the nature of the case and also taking into consideration the mandate laid down under Section 37 of the Narcotic Drugs and Psychotropic Substances Act and as this Court is of the view that the case falls outside the ambit of the said provision of law and as nothing is brought to the notice of this Court about the criminal antecedents or any possibility of the participation of the petitioners in further crime, this Court is of the view that the request of the petitioners can be honoured, however, conditionally.

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

- (i) The petitioners/Accused Nos.1 & 2 shall be enlarged on bail on their executing a personal bond for Rs.75,000/- (Rupees Seventy Five Thousand only) each 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 petitioners/Accused Nos.1 & 2 should not involve in any unlawful activity.
- (iii) The petitioners/Accused Nos.1 & 2 should afford all assistance for the proper investigation of the case.
- (iv) The petitioners/Accused Nos.1 & 2 should not cause the evidence of the offence disappear.
- (v) The petitioners/Accused Nos.1 & 2 should not tamper with the evidence in any manner.
- (vi) The petitioners/Accused Nos.1 & 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.

- (vii) In case the petitioners/Accused Nos.1 & 2 hold a passport, they shall surrender the same if the same is not seized till now.
- (viii) The petitioners/Accused Nos.1 & 2 should ensure their presence whenever required by the Court or Police.
- (ix) The petitioners/Accused Nos.1 & 2 shall not leave India without previous permission of the Court concerned.
- (x) The petitioners/Accused Nos.1 & 2 shall file 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 affidavits duly mentioning the change.

- (xi) The petitioners/Accused Nos.1 & 2 shall not leave the jurisdictional limit of Warangal District till completion of trial in the Sessions Case in question and pronouncement of judgment. However, the petitioners are at liberty to leave the jurisdictional

limit of Warangal District on obtaining prior permission from the Special Court. In case it is brought to the knowledge of the Special Court either by the prosecuting agency or otherwise that the petitioners, at any time, during the course of proceedings have left the jurisdictional limit of Warangal District without obtaining any permission, the Special Court is at liberty to cancel the bail granted.

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:25.01.2023

ysk

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.11848 of 2022

Date: 25.01.2023

ysk