

THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELENGANA AND THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

TUESDAY THIS THE SEVENTH DAY OF APRIL
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE MR JUSTICE C.PRAVEEN KUMAR

-

CRIMINAL PETITION No.2844 of 2015

Between:

Gangi Reddy Nagi Reddy

..... PETITIONER

AND

The State of Andhra Pradesh,

Rep.by its Public Prosecutor,

High Court of Judicature at Hyderabad

.....RESPONDENT

The Court made the following:

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CRIMINAL PETITION No.2844 of 2015

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ORDER:

The petitioners, who is Accused No.3 in Crime No.38 of 2015 of Chimakurthy Police Station, Prakasham District, filed the present criminal petition seeking release on bail in the event of his arrest in connection with the above crime, registered for the offences punishable under Sections 323, 506, 509 r/w. Sec.34 of IPC and under section 3(1)(x) of SC & ST (POA) Act.

Though the present application is filed seeking release in the event of arrest of the petitioner, the learned counsel for the petitioner restricts his prayer seeking a direction to the investigating agency to follow the judgment of the Apex Court in ***Arnesh Kumar v. State of Bihar and another.***

In ***Arnesh Kumar case (1 supra)*** the Apex Court held as under:

1. All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A of the IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 Cr.P.C.
2. All police officers be provided with a check list containing specified sub-clauses under Section 41 (1) (b) (ii);
3. The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;
4. The Magistrate while authorizing detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorize detention;
5. The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;
6. Notice of appearance in terms of Section 41 A of Cr.P.C. be served on the accused within two weeks from the date of institution of the case, which may be extended by the

Superintendent of Police of the District for the reasons to be recorded in writing;

7. Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of Court to be instituted before High Court having territorial jurisdiction.
8. Authorising detention without recording reasons as aforesaid by the Magistrate concerned shall be liable for departmental action by the appropriate high court.

The Apex Court also held that “ the directions aforesaid shall not only apply to the cases under Section 498-A of the IPC or Section 4 of the Dowry Prohibition Act, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.”

In view of the judgment of the Apex Court referred to above and since the offences alleged against the petitioner is punishable with imprisonment for a term which is less than seven years, the investigating agency shall scrupulously follow the conditions stipulated in the judgment of the Apex Court and also Section 41 Cr.P.C., before taking any coercive steps against the petitioner/A3.

With the above direction, the Criminal Petition is disposed of.

C.PRAVEEN KUMAR,J

Dated: 07.04.2015

Dsr