

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA
CRIMINAL PETITION Nos.5300, 5455 AND 5653 OF 2017

COMMON ORDER:

These three Criminal Petitions, under Section 482 read with 439 (1) (b) of the Code of Criminal Procedure, 1973 (for short, 'the Code'), are filed by accused Nos.2, 10 and 13 in Crime No.767 of 2016 of Ramachandrapuram Police Station, erstwhile Sangareddy District, registered for the offences punishable under Sections 120-B, 395, 201 and 411 of I.P.C. and Section 25 (1A) of Indian Arms Act, 1868.

2. Heard Sri P. Prabhakar Rao, learned counsel for the petitioners, and learned Additional Public Prosecutor for the State of Telangana.

3. An identical request is made in all these three Criminal Petitions to relax the condition of surrendering original passports of the petitioners before the Additional Judicial Magistrate of First Class, Sangareddy, imposed as one of the conditions while granting bail by the Family Court – cum – VII Additional Sessions Judge, Medak at Sangareddy, by its orders, dated 20.04.2017 and 25.04.2017, in CrI.M.P.Nos.280, 291 and 297 of 2017 in Crime No.767 of 2016.

4. The conditions imposed by the learned Sessions Judge in CrI.M.P.No.280 of 2017 read thus:

“In the result, this petition is allowed and the petitioner/Accused No.13 is enlarged on bail on executing a personal bond for Rs.50,000/- (Fifty Thousand) each with two local sureties for the like sum to the satisfaction of Additional Judicial Magistrate of First Class, Sangareddy, with a further condition to attend before the Station House Officer, Ramachandrapuram police station every day in between 10-00 A.M., to 4-00 P.M., until further orders and also the petitioner is directed to stay within the limits of Ramachandrapuram police station by furnishing his address of stay to concerned police station and he should not leave the limits of Ramachandrapuram police station without prior permission from this Court in case of urgency and also directed to surrender his original passport before Additional Judicial Magistrate of First Class, Sangareddy along with sureties and the petitioner/A-13 should not leave India without permission from this Court.”

5. Learned counsel for the petitioners would submit that none of these petitioners do possess any passport and, therefore, the condition imposed relating to surrendering of passports is impossible to perform or abide by. He would also submit that a Memo, dated 19.06.2017, along with the information supplied by the Central Public Information Officer and Deputy Passport Officer, Thane, dated 14.06.2017, was filed before the Court below bringing the said fact to the notice of the Court, but the said Memo was not accepted by the Court below. He would also submit that such information supplied in respect of all the petitioners is filed in the respective Criminal Petitions filed by the petitioners. He has also drawn the attention to the said Memo and the endorsement made by the Court below.

6. Learned Additional Public Prosecutor would submit that the petitioners are involved in serious offences where 45 Kgs. of gold is the subject matter of dacoity committed by them along with others, and seeks to direct the petitioners to approach the Court below, which imposed the conditions, for relaxation.

7. A copy of the Memo along with the order passed by the Court below is occurring in the record. What was ordered on 22.06.2017, which was the last order passed by the Court below, is to the effect that since no provision is made in the Code to file a Memo, no judicial order can be passed.

8. It is true, a Memo is filed for intimation to the Court a particular fact, but no relief can be sought for by filing a Memo. Even in the Memo filed before the Court below, no relief was sought for as could be seen from the contents. In such an event, petitioners are directed to approach the learned Judge, Family Court – cum – VII Additional Sessions Judge, Medak at Sangareddy, and file applications seeking relaxation, which the petitioners now sought, by taking back the Memo from this Court, so as to file the same in the respective petitions, if they are needed. If such applications are filed by the petitioners, the learned Sessions Judge is directed to dispose of the same on the same day. Nonetheless, it is relevant to observe that while granting bail, the condition which is an impossibility to perform

need not be imposed, since it defeats the very object of granting bail itself. Instead, the Court may negative the relief in its entirety.

9. With the above directions, the Criminal Petitions are dismissed. Miscellaneous Petitions, if any, pending in these Criminal Petitions shall stand closed.

A. SHANKAR NARAYANA, J

July 13, 2017.
MD

