

**HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
WEDNESDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND SEVENTEEN**

:PRESENT:
THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRL. P. NO:11025 of 2017

Between:

- 1 M/s. S.L. Diagnostics Pvt. Ltd., a company incorporated under Indian Companies Act, Having its office at 1-8-702/35, Ground Floor, Windsor Plaza, Nallakunta, Hyderabad, rep. by its Managing Director Mr. P. Srinivas.
- 2 Dr. Mir Akram Ali S/o. Mir Altaf Ali, Occ : Doctor, R/o. D.No. 10-3-192, Humayun Nagar, Hyderabad.
- 3 Sri P. Srinivas S/o. Late Krishna Rao, Occ : Business, R/o. Flat No. 301, Raj Residency, H.No. 2-1-566/C/1/301, Street No. 11, Nallakunta, Hyderabad.
- 4 Sri Sabri Hasan Ismail Arouri S/o. Hasan Ismail Arouri, Occ : Doctor, R/o. Markaj Villa, Road No. 3, Banjara Hills, Hyderabad.

..... Petitioners/Accused No. 1, 4, 5 & 6

AND

The State of Telangana, Rep. by its Public Prosecutor, High Court of Judicature at Hyderabad, through PS Nallakunta, Hyderabad.

.....Respondent

Petition under Section 438 of Cr.P.C., praying that in the circumstances stated in the petition and the grounds filed herein, the High Court may be pleased to enlarge the Petitioners/Accused No.1,4,5 & 6 on bail in the event of their arrest in the Crime No. 217 of 2017 on the file of PS Nallakunta, Hyderabad.

Counsel for the Petitioners : SRI N.D.V.RAMANA RAO

Counsel for the Respondent : ADDL. PUBLIC PROSECUTOR (TS)

The Court made the following ORDER:

“This Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973, is filed by the petitioners/accused Nos.1, 4, 5 and 6, for grant of anticipatory bail in the event of their arrest in Crime No.217 of 2017 on the file of the Nallakunta Police Station, Hyderabad District, registered for the offences punishable under Sections 420, 406, 506, 120-B of I.P.C.

2. Heard the learned counsel for the petitioners/accused Nos.1, 4, 5 and 6, learned Additional Public Prosecutor representing the respondent-State and perused the record.

3. The learned counsel for the petitioners/accused Nos.1, 4, 5 and 6 had not pressed this Criminal Petition in respect of petitioner/accused No.1, since it is a corporate body.

4. The learned counsel for the petitioners/accused Nos.4, 5 and 6 would submit that there is no malice or ill-will. Though the blood sample collected from the de-facto complainant on 10.06.2017 was found 'reactive' for HIV, another blood sample collected from the de-facto complainant on 01.09/2017 was found 'non-reactive' for HIV. The same was intimated to the employer of the de-facto complainant and the de-facto complainant has been continuing in his employment. The learned counsel further submits that there is no element of cheating, falsifying the report against the accused. In the facts and circumstances of the case, no offence is made out against the petitioners.

5. As per the submissions made by the learned counsel for both the sides, on 10.06.2017, about 18 persons were subjected to HIV test. Only the blood sample of the de-facto complainant was found 'reactive' for HIV. The learned counsel for the petitioners would submit that the HIV test of the de-facto complainant was performed under 'CLIA' method, there is possibility of showing the result as 'reactive', when there is viral infection or some other mischievous element present in the blood of a person. The petitioners/accused Nos.4, 5 and 6 are not directly or indirectly responsible for fabricating the report, dated 10.06.2017. The machine which performed the test is fully automatic. There is no human interference or interception in the process of conducting CLIA test with 4th generation equipment. Once a sample is sent into the machine, the machine will furnish the reading. The machine and the procedure is mandated by GCC and the tests are performed as per NABL standards. In view of the submissions of the learned counsel for both the sides, it cannot be said that there is deliberate or intentional act on the part of the petitioners/accused Nos.4, 5 and 6 to generate the report, dated 10.06.2017, stating that the de-facto complainant was diagnosed as HIV positive. Having regard to the nature of allegations levelled against the petitioners/accused Nos.4, 5, and 6, this

Court is inclined to grant bail to them under Section 438 of Cr.P.C. on some conditions.

6. Accordingly, the petitioners/accused Nos.4, 5, and 6 are directed to surrender before the Station House Officer, Nallakunta Police Station, Hyderabad District, within a period of 15 days from the date of this order. On such surrender, the Station House Officer, Nallakunta Police Station, Hyderabad District, shall release the petitioners/accused Nos.4, 5, and 6 on bail on their executing personal bonds for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties in a like sum each to his satisfaction. After being released on bail, the petitioners/accused Nos.4, 5, and 6 shall report before the Station House Officer, Nallakunta Police Station, Hyderabad District, on every Sunday between 09:00 AM and 10:00 AM, till filing of the charge-sheet. The petitioners/accused Nos.4, 5, and 6 shall also abide by the conditions stipulated in Section 438 (2) of the Code of Criminal Procedure, 1973, and shall cooperate with the investigation officer in the investigation of the case.

7. The Criminal Petition is, accordingly, allowed.

Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.”

//TRUE COPY//

ASSISTANT REGISTRAR

For ASSISTANT REGISTRAR

To

1. The IV Addl. Chief Metropolitan Magistrate, Hyderabad.
2. The Station House Officer, Nallakunta Police Station, Hyderabad.
3. Two CCs to Public Prosecutor, (TS), High Court of Judicature, at Hyderabad (OUT)
4. one CC to Sri N.D.V. Ramana Rao, Advocate (OPUC)
5. one Spare Copy

HIGH COURT

**AB
DRAFTED ON 24-11-2017**

DR.SA,J

DATE: 22-11-2017



ORDER

CRL.P. NO. 11025 OF 2017

DIRECTION