

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

FRIDAY, THE EIGHTH DAY OF JUNE, TWO THOUSAND AND EIGHTEEN ✓

: PRESENT :

THE HONOURABLE DR JUSTICE B. SIVA SANKARA RAO ✓

CRLP .No. 5139 of 2018 ✓

Between:-

Manoj Soni, S/o. Satyanarayan Soni.

..... Petitioner/Accused.

AND

The State of Telangana, through Public Prosecutor,
High Court at Hyderabad.

.....Respondent/Complainant.

Petition filed under Section 438 of Cr.P.C. praying that in the circumstances stated in the Grounds of Criminal Petition, the High Court may be pleased to enlarge the petitioner on bail in the event of his arrest in Crime No. 224 of 2017 on the file of Tandur Police Station in Vikarabad District, in the interest of justice.

The petition coming on for hearing, upon perusing the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri B. Vijaysen Reddy, Advocate for the Petitioner and of Public Prosecutor(TS) on behalf of sole Respondent-State, the Court made the following

ORDER :-

HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.5139 OF 2018

ORDER:

This Criminal Petition is filed under Section 438 of Cr.P.C. by the petitioner/sole accused in Crime No.224 of 2017 of Tandur Police Station, Vikarabad District, registered for the offence punishable under Section 306 of I.P.C.

The deceased was one by name J.Thuljappa, S/o.Sambanna. He was working along with others as employee in the entity (Jayasri Stone Polishing Company) at Tandur. The sum and substance of the report of the de-facto complainant, none other than wife of the deceased, for the death of the deceased on 06.02.2017, of the body found at the railway track with injuries. From her report dated 17.07.2017 is that the deceased committed suicide by falling under the railway track for the employer without payment of the wages was harassing and unbearable therefrom, leave about the report is more than 5 months, after the said occurrence, her statement before the police of a F.I.R. in Crime No.11 of 2017, dated 07.02.2017, shows that on previous date i.e., 06.02.2017, her husband (deceased) went along with other workers to the factory (workplace), where he altercated with the other workers and therefrom the owner of the factory chided him as to why, without attending the work, all of you are doing and he went in the afternoon at about 03:00 p.m. out of the company premises and later it is noticed that he sustained injuries and lying at the railway track near platform No.3, Tandur Railway Station and shifted to hospital, and while undergoing treatment in the Gandhi Hospital, Hyderabad, where he was shifted for better treatment, he breathed his last in the intervening night at about 08:00 p.m.



Even from the two statements one F.I.R. dated 17.07.2017 and the other her statement during the investigation on the next day of the occurrence dated 07.02.2017 no way correlates as to the occurrence and none of those disclose any of the three components of Section 107 I.P.C., to attract the offence under Section 306 I.P.C., thereby, from the investigation material, the petitioner is entitled to the concession of anticipatory bail subject to the following conditions.

1. The petitioner/sole accused is directed to surrender before the Station House Officer, Tandur Police Station, Vikarabad District, within 15 days from today, and on such surrender, the petitioner/sole accused shall execute a self-bond for Rs.25,000/- [Rupees twenty five thousand only] with two sureties for the like sum each to the satisfaction of the arresting authority, otherwise giving liberty to the petitioner to submit before the Judicial Magistrate of First Class having the jurisdiction for taking to custody and enlarge. The bond to be obtained is not only to appear before the Court pending investigation and after filing of final report in the form of charge sheet or the like for enquiry/trial before said Court, but also thereafter before any other Court and even after trial before such Court to appear before revisional or appellate Court or other superior Court - *vide* decision in **Pre-Legal Aid Committee, Jamshedpur Vs. State of Delhi** ((1982 [2] APLJ 43 (SC)); so that at stage of committal or other proceedings obtaining of fresh bond from accused and even affidavits of sureties of bonds and solvency earlier produced are ratifying and in existence and enforceable, without even insisting his further presence, such recourse quickens the proceedings at other stages before that Court or other Court without loss of time and it also to some extent complies with the requirement of Section 437A Cr.P.C.

2. The petitioner/sole accused shall report before the Investigating Officer on every Sunday till filing of charge sheet and thereafter once in a month on 1st Sunday between 06.00 p.m to 07.00 p.m until further orders of learned Magistrate for



assurance of his availability and non-interference in any manner with the witnesses. The relaxation of this condition in future can be sought before learned trial Magistrate to whom by this order power is conferred.

3. The petitioner/sole accused shall attend before the Court of law regularly in enquiry and trial without fail, if not his bail shall be cancelled forthwith, without any further order so that, the learned Judge concerned can also issue NBW by canceling the bail from the power under section 439 [2] Cr.P.C. delegated by this order during pendency of proceedings before the Court.

4. The petitioner/sole accused shall not leave the State pending enquiry/trial without prior permission of the learned trial Judge.

5. The petitioner/sole accused shall furnish his full address with property and bank account particulars and submit his passport, if any, after enlargement of bail on the next hearing date before the Court concerned (for collecting by police as part of their duty to investigate-also the means of accused and to furnish the same in the final report of investigation to enable the trial Court in the event of considering the need of awarding compensation under section 357 Cr.P.C. so to award from such material and evidence, apart from securing presence and obtaining of bond with sureties under section 437A Cr.P.C. etc.), failing which it is open to the learned Judge concerned by virtue of the power conferred by this order to cancel the bail.

6. The bail now granted is since a anticipatory one, till end of trial (without prejudice to the right to cancel meanwhile in case of need and/or for non-compliance of conditions supra) any absence of petitioner as sole accused for hearing/enquiry or trial, issuance of non-bailable warrant-NBW (unless cancelled before execution) and even its execution and production of sole accused as per the NBW; that does not tantamount to cancellation of bail including from the wording of Section 439(2) Cr.P.C. and as such in such an event no fresh bail application can be entertained. As



it tantamount to only cancellation of bail bonds earlier executed, (leave about the power of the court to issue surety notices by forfeiting bonds and for imposing penalty on the bonds forfeited); the proper course is to direct the sole accused to work out the remedy to pay penalty on the previous forfeited bonds as per Section 441 to 446 Cr.P.C and to submit fresh solvency with self bond for enlarging him by release from custody on payment of penalty of the earlier bonds forfeited without need of enforcing against earlier sureties again.

Accordingly, with the above observations, the Criminal Petition is allowed.

In consequence, miscellaneous petitions, if any, pending in this Petition shall stand closed.

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SD/- T. KRISHNA KUMAR
ASSISTANT REGISTRAR

for ASSISTANT REGISTRAR

- To
- 1.The XII Additional District and Sessions Judge, Vikarabad, Ranga Reddy District.
 - 2.The Judicial First Class Magistrate, Tandur Mandal, Vikarabad District.
 - 3.The Station House Officer, Tandur Town Police Station, Vikarabad District.
 - 4.Two CCs to the Public Prosecutor(TS), High Court at Hyd.(OUT)
 - 5.One CC to Sri B. Vijaysen Reddy, Advocate(OPUC)
 - 6.One spare copy.

TKK

HIGH COURT

SSRB..I

DT.08-06-2018.

BAIL ORDER

CRL.P.No. 5139 of 2018

RELEASE THE PETITIONER
ON BAIL



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