

**HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
WEDNESDAY, THE THIRTEENTH DAY OF JUNE
TWO THOUSAND AND EIGHTEEN**

**:PRESENT:
THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO**

CRIMINAL PETITION NO: 5312 OF 2018

Between:

D. Srinivas Reddy, S/o Rama Chandra Reddy

Petitioner/Accused No.1

AND

The State of A.P., Rep by its Public Prosecutor, High Court at Hyderabad.

Respondent

Petition under Section 438 of Cr.P.C, praying that in the circumstances stated in the affidavit filed in support of the Criminal Petition, the High Court may be pleased to direct release of the Petitioner on bail in the event of his arrest pursuant to registration of case in Crime No. 21 of 2017 of Gajuwaka Police Station/Cyber Crimes, Visakhapatnam City District, pending enquiry and trial;

Counsel for the Petitioner : SRI D.PURNACHANDRA REDDY

Counsel for the Respondent : PUBLIC PROSECUTOR, (AP)

The Court made the following:

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.5312 OF 2018

ORDER:

Heard learned counsel for petitioner/A1 in crime No.21 of 2017 of Gajuwaka Police Station, Visakhapatnam, registered for the offences punishable under Section 420 IPC and Sections 66-C & 66-D of Information Technology Act and the learned Public Prosecutor representing the State and perused the material on record.

The report given by the defacto complainant was dated 08.01.2017 as mentioned in the bail application on 14.12.2016 itself to the defacto complainant, the petitioner/A.1 issued a legal notice it shows acknowledgment dated 17.12.2016 to say more than fifteen (15) days prior to the giving of the report there were exchange of notices between the parties and there is some force in the contention of it is afterthought after receiving of the notice to implicate. Though there is some mistaken taken place from the staff of the petitioner and a letter was given to the HR Manager by P.Siva Prasad about Rs.6,000/-, such a transaction that was immediately on noticing re-transacted by remitting to the bank account.

However all these are contentions and there is no observation by going into the merits for purpose of bail application, but for to say from the above sufficient in consideration of the propensity of the crime and personal liberty of the petitioner to grant anticipatory bail.



By taking into consideration of these facts, this Criminal Petition is allowed and anticipatory bail is granted to the petitioner with the following conditions:

1) The petitioner is directed to surrender before the Station House Officer, Gajuwaka Police Station, Visakhapatnam, within fifteen (15) days from today and on such surrender he shall be enlarged on bail on his executing a self-bond for Rs.50,000/- [Rupees fifty thousand only] with two sureties for the like sum each to the satisfaction of the Station House Officer, Gajuwaka Police Station, Visakhapatnam. 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-Pre-Legal Aid Committee, **Jamshedpur Vs. State of Delhi 1982[2]APLJ 43(SC)**; so that existence and enforceable, without even insisting their 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) Petitioner shall report before the Investigating Officer on every Sunday till filing of charge sheet and thereafter once in a month on 1st Sunday between 6.00 p.m to 7.00 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) Petitioner shall attend before the Court of law regularly in enquiry and trial without fail, if not their bail shall be cancelled forthwith, without any further order so that, the learned trial Magistrate can also issue NBW by cancelling the bail from the power under Section 439(2) Cr.P.C. delegated to the trial Magistrate by this order during pendency of proceedings before the Court.

4) Petitioner shall not leave the State pending enquiry/trial without prior permission of the learned trial Judge.

5) Petitioner shall furnish his full address either present or changed addresses if any from time to time and submit his passport if any, after enlargement on bail on the next hearing date before the trial Magistrate concerned for securing presence and obtaining of bond with sureties in future under Section 437A CrPC, etc.), failing which it is open to the learned Magistrate 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/s as accused for hearing/enquiry or



trial, issuance of non-bailable warrant-NBW (unless cancelled before execution) and even its execution and production of 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 event no fresh bail application can be entertained. As it tantamounts 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 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.

Miscellaneous petitions, if any, shall stand closed.

SD/- CH.VENKATESWAR
ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To,

1. The III Addl. Chief Metropolitan Magistrate, Gajuwaka, Visakhapatnam City.
2. The Station House Officer, Gajuwaka Police Station/Cyber Crimes, Visakhapatnam City.
3. Two CCs to Public Prosecutor, (AP), High Court of Judicature, at Hyderabad (OUT)
4. One CC to Sri D.Purnachandra Reddy, Advocate (OPUC)
5. one Spare Copy

HIGH COURT

DR.SSRB,I

DATE: 13-06-2018

ORDER

CRL.P. NO. 5312 OF 2018

DIRECTION

