

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

WEDNESDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND EIGHTEEN

:PRESENT:

THE HONOURABLE DR. JUSTICE B.SIVA SANKARA RAO

CRLP .NO: 5740 of 2018

Between:

1. Gundavarapu Prajapathi Rao S/o G.Venkata Appa Rao
2. Nidumolu Rama Satyanarayana S/o. Ramalinga Murthy
3. P.Krishna Mohan S/o.Dasaradharamaiah,

..... Petitioner/Accused 1 to 3

AND

The State of Andhra Pradesh, Through SHO., Suryaraopet Police Station,
Vijayawada, Krishna District, Rep. by the Public Prosecutor, High Court of
Judicature at Hyderabad.

.....Respondent/complainant

Petition under Section 438 of Cr.P.C. praying that in the
circumstances stated in the petition filed herein, the High Court may be pleased
to enlarge the Petitioner/Accused 1 to 3 on Bail, in the event of their arrest in
connection with Crime No.174 of 2018 of Suryaraopet Police Station, Vijayawada,
Krishna District, A.P.

The petition coming on for hearing, upon perusing the Petition and
the grounds filed in support thereof and upon hearing the arguments of
Sri P Roy Reddy, Advocate for the Petitioner, and of Public Prosecutor(AP) for the
respondent, the Court made the following.

ORDER

Heard learned counsel for petitioners-A1 to A3 in crime No.174 of 2018 of
Suryaraopet Police Station, Vijayawada, Krishna District, registered for the
offences punishable under Sections 468, 471, 420, 120-B IPC r/w 34 IPC,
outcome of report of one K.Ravi referred as President of Durga Malleswara
Educational Society dated 13.05.2018 at about 17.00 hours that was submitted

to the Court only on 16.05.2018 and the learned Public Prosecutor representing the State and perused the material on record.

The averments in the report given by said K.Ravi shows that the Society is governed by the provisions of the AP Societies Registration Act, 2001 and the Executive Committee is constituted for functioning of the Society time to time and the General Body meeting held on 15.01.2009 and A.1-G.Prajapathi Rao by then Secretary resigned that was accepted by the General Body and new Executive Committee was elected with one V.Kameswara Rao as Secretary and Prajapathi Rao-A.1 addressed letter dated 16.01.2009 to the President of the Society supra to relieve him from the post of Correspondent-ship saying already resigned from the post of Secretary and handed over the charge to said Kameswara Rao on 24.01.2009 and notified in turn the Commissioner of College Education by proceedings dated 24.02.2009 and approved the said change and recognizing the Kameswara Rao as Correspondent and later a new Committee was constituted again on 01.08.2011 and one Pardhasaradhi elected as President and Rajendra Prasad as Secretary with others as Executive Committee of the Society and said change was approved by the Commissioner of Collegiate Education on 26.09.2011 and they are continuing till date. That on 31.03.2017, Prajapathi Rao, Ex-Secretary and Ex-Correspondent of the Society and the College with some unauthorized persons trespassed into the College and forcibly occupied the college office to the shocking of the report given by said K.Ravi claiming as President and that the developments from the enquiry found Prajapathi Rao submitted fake and fabricated extract of resolution/minutes of the meeting dated 16.08.2016 before the Regional Joint Director (RJD) of Collegiate Education stating Rajendra Prasad has been removed as Correspondent and nominated N.Rama Satyanarayana-A.2 as Correspondent and got a recommendation for change from the RJD, CE, Rajahmundry, the Special Commissioner of CE, Vijayawada and approved the change vide proceedings dated 30.03.2017. It is further averred that on coming to know by the orders dated 30.03.2017 passed by the Special Commissioner, Rajendra Prasad submitted a representation before the Special Commissioner, Vijayawada and after reviewing the facts, Special Commissioner issued another order on next day dated 31.03.2017 cancelling the change recorded on previous day dated 30.03.2017. It is therefrom averred by the defacto complainant of they came to know of Prajapathi Rao created, forged and fabricated minutes dated 16.08.2016 with false contents and submitted to the District Registrar, Krishna District, for taking into records and the District Registrar without knowing about fabrication and forgery taken the list submitted by Prajapathi Rao dated 16.02.2017 and the District Registrar after appraising about the true facts addressed letter to the RJD, CE, Rajahmundry, dated 11.05.2017 stating a perusal of the records and connected court judgments with regard to different writ petitions submitted to this authority by both Prajapathi Rao and Ravi and taking into consideration the

filings with regard to governing body of the Society which were being taken into record from time to time, the present governing body as per the office is the list submitted by K.Ravi. It is further averred that A.2-N.Rama Satyanarayana submitted his resignation to the Executive Committee on 15.01.2009 and 09.02.2009. On 09.03.2009, Prajapathi Rao submitted his resignation to the General Body as referred supra and after long gap of seven years having left the institution without any manner of right and interest, they are not even members of the Society, they with malafide intention to grab the society properties trespassed, manipulated the records, fabricated and forged the minutes of the aforesaid meeting. He also apprehends that Prajapathi Rao-A.1 and N.Rama Satyanarayana-A.2 took help from several others to fabricate the documents and misleading public servants to act contrary to law and are liable to be punished. It is further of clearly understood therefrom that Prajapathi Rao with an intention to cause loss to the Society and cover up his earlier misdeeds without any authority or right is trying to interfere with the management affairs and falsely claiming rights in the Society and the College and Prajapathi Rao and his associates with an intention to grab the same forging signatures of other members and submitting to various authorities as if genuine and without conducting any meeting on 16.08.2016 they prepared fabricated extract of the minutes of the General Body meeting by forging the signatures of the majority members and submitted before the District Registrar of Societies, Krishna, to enter the same into the records and prima facie Prajapathi Rao-A.1 along with his henchmen trespassed into the Society Office, college office, destroyed the records, fabricated and forged the minutes of the meeting and created as if the meeting was conducted on 16.08.2016. It is the crime was registered for the above Sections of law.

Strangely a perusal of the entire report running into 4 pages, but in the last para a stray sentence refers about W.P.No.28057 of 2012 and W.P.No.138912 of 2014 not referred the several writ petitions particularly 3 major writ petitions with contest, leave about said Ravi is defendant No.3 in O.S.No.85 of 2017 filed by said Durga Malleswara Educational Society represented by its Secretary said Prajapathi Rao, which is a suit for permanent injunction restraining Rajendra Prasad, Sridhar and K.Ravi and their men from interfering with the administration of the plaintiff's society in any manner and there was reference of several facts particularly from Para 4 onwards of the Injunction petition affidavit in IA.No.354 of 2017 dated 10.04.2017 including writ petitions commencing from W.P.No.27867 of 2011, Lokayukta AC.No.1890 of 2011 and civil appeal AS.No.128 of 2007 and particularly at Para 7 that Rajendra Prasad by using political influence and holding post of Member of Legislative Assembly (MLA) unauthorizedly and highhandedly interfering with the day to day affairs of the Society and there was a temporary injunction granted undisputedly therein. It is after counter contest of R.1 to R.3 filed on 17.04.2017 as per the

docket proceedings of the injunction petition and the pendency of the temporary injunction application is reflected in W.P.No.23277 of 2017 interim order dated 13.07.2017 particularly at page Nos.2 & 3 of the order and even said Rajendra Prasad who was the 4th respondent to the writ petition filed WA.No.981 of 2017 and same was disposed of on 20.07.2017 particularly with observations in the last but one para of suffice to make it clear that the appellant's appeal shall be considered and decided in accordance with law, uninfluenced either by the order in IA.No.362 of 2017 in OS.No.85 of 2017 dated 26.04.2017 or by the observations made in the order under appeal or in the order now passed by the Division Bench, at the earliest and in any event not later than six weeks. It is from the concession given to allow the W.P.No.23277 of 2017 against the appellate authority order dated 29.06.2017 that is by Special Chief Secretary to the Government, Higher Education, for that it is to mention that it is strange to say as if said Ravi, who given the present complaint on 13.05.2018 as if recently came to know and not party as if on 16.08.2016 Prajapathi Rao entered and conducted and passed a fake resolution and by entering the college premises while stating that Prajapathi Rao voluntarily resigned on 15.01.2009 itself after 7 years leave about the giving of the report even after served with the suit summons and the injunction order dated 26.04.2017 by waiting more than a year not only that leave about the prior litigation so far as W.P.No.12089 of 2017 maintained by the Society represented by the Secretary G.Prajapathi Rao impugning the suspension proceedings dated 31.03.2017 of the earlier day proceedings dated 30.03.2017. There was interim suspension of the same reviving the proceedings dated 30.03.2017 on 06.04.2017 and Alapati Rajendra Prasad who was not even party to the said writ petition among the 4 respondents with the leave of the Court maintained WA.No.476 of 2017 with WAMP.No.1005 of 2017 impugning the interim order of the learned Single Judge and the Division Bench of this Court by order dated 13.04.2017 not only upheld the interim order but also allowed the writ petition dismissing the said appeal with observations particularly in last but one para that the fact however remains that, having accorded approval on 30.03.2017, the Commissioner appears to have changed his mind the very next day and had cancelled the earlier order. No reasons are assigned for cancellation of the earlier order dated 30.03.2017. We are, however, saved the trouble of examining the validity of the proceedings dated 31.03.2017 as Sri S.Ravi, learned Senior Counsel appearing on behalf of the appellant, submits that, since the order under challenge in W.P.No.12089 of 2017 is only the order dated 31.03.2017, this Court may allow the writ petition itself, setting aside the order dated 31.03.2017, leaving it open to the appellant to challenge the validity of the order dated 30.03.2017 in appropriate legal proceedings,.....

From this suffice to say, this criminal complaint is engineered as back door method to implicate the petitioners. Since the petitioners are entitled to

anticipatory bail though the learned Public Prosecutor opposed the bail application with written instructions of 3 pages with part-I case diary particularly in the last paras saying the accused are highly influenced persons they may try to grab the society and if are released on bail will jump bail and would not cooperate with the investigation and this must be taken into consideration with observation of not to jump bail and to cooperate with the investigation and appear before the police whenever required pending investigation if at all by written notice.

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

1) The petitioners/A.1 to A.3 are directed to surrender before the Station House Officer, Suryaraopet Police Station, Vijayawada, Krishna District, within fifteen (15) days from today and on such surrender they shall be enlarged on bail on their executing self-bond for Rs.50,000/- [Rupees fifty thousand only] each with two sureties for the like sum each to the satisfaction of the Station House Officer, Suryaraopet Police Station, Vijayawada, Krishna District. 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) Petitioners/A.1 to A.3 shall report before the Investigating Officer on every Sunday till filing of charge sheet and thereafter once in a month on 1st Sunday between 5.00 p.m to 6.00 p.m until further orders of learned Magistrate for assurance of their 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) Petitioners 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) Petitioners shall not leave the State pending enquiry/trial without prior permission of the learned trial Judge.

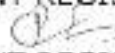
5) Petitioners shall furnish their full address either present or changed addresses if any from time to time and submit their passports if any, after enlargement on bail on the next hearing date before the trial Magistrate concerned for securing presence and obtaining of bond with sureties in future 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 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.

//TRUE COPY//

Sd/- I.NAGA LAKSHMI
ASSISTANT REGISTRAR


For ASSISTANT REGISTRAR

To

1. The Station House Officer, Suryaraopeta Police Station, Vijayawada, Krishna District, A.P.
2. Two CCs to the Public Prosecutor (AP), High Court at Hyderabad (OUT)
3. One CC to Sri P ROY REDDY, Advocate (OPUC)
4. One spare copy.

Gk

HIGH COURT

DR.SSRB,J

DATED: 20.06.2018

ORDER:



CRLP. NO:5740 of 2018

DIRECTION