

THE HONOURABLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION NO.20118 OF 2019

ORDER :

The present Writ Petition is filed by the petitioner herein to declare the action of respondent Nos.3 and 4 in harassing the petitioner by calling frequently over the phone and also sending constables to petitioner's house as being arbitrary, illegal and contrary to law and violative of Articles 14, 19 and 21 of the Constitution of India.

Heard Sri M. Janardhan Rao, learned counsel represented Sri R. Bhaskar, Learned Counsel for the petitioner and Assistant Government Pleader for Home. The learned Assistant Government Pleader for Home also made available on record of the 5th respondent and the General Diary for perusal of the Court.

Brief facts of the case are that the petitioner, who is a practising Advocate, is an accused, in Crime No.15 of 2018 of Kamalapur Police Station, Warangal Commissionerate for the offences punishable under Sections 290, 324 and 506 of the Indian Penal Code. Upon the crime being registered against the petitioner, the petitioner approached this Court for grant of

anticipatory bail and this Court, by order in Criminal Petition No.5876 of 2018 dated 05.07.2018, granted bail by imposing certain conditions. Some of the conditions of the said anticipatory bail granted by this Court in the Writ Petition were directing the petitioner to appear before the Station House Officer-3rd respondent on every Sunday and Wednesday till filing of the charge sheet, apart from executing a self-bond of Rs.50,000/- with two sureties for the like sum each to the satisfaction of the arresting authority i.e., the 3rd respondent.

The petitioner after having obtained anticipatory bail from this Court appeared before the 3rd respondent on 16.07.2018, however, failed to execute self bond for Rs.50,000/- as directed by this Court.

The petitioner thereafter approached the Judicial Magistrate of Ist Class, Huzurabad for relaxation of bail conditions imposed by this Court in Criminal Petition No.5876 of 2018. The said petition was dismissed by the Judicial Magistrate of Ist Class by order dated 06.10.2018. The Court below while dismissing the petition for relaxation of the bail conditions imposed by this Court has observed that no documents were filed by

the petitioner-accused to satisfy the Court that he has complied with the orders of this Court.

Thereafter the petitioner once again approached this Court by filing I.A. No.1 of 2018 in the Criminal Petition No.5876 of 2018 seeking relaxation of conditions imposed by this Court, in its order dated 05.07.2018, in connection with Crime No.15 of 2018. This Court, by its order dated 01.10.2018, modified the condition imposed by its order dated 05.07.2018 by directing the petitioner-accused to appear before the Investigating Officer on every Sunday between 9:00 a.m to 11:00 a.m till filing of the charge sheet as against the earlier condition of petitioner having to report before the Investigating Officer on every Sunday and Wednesday. However, this Court in its order dated 01.10.2018 while modifying the condition relating to appearance on the days specified, has categorically observed that “*there is no change in the other conditions*”.

Despite this Court modifying its earlier order permitting the petitioner to appear before the Investigating Officer only on every Sunday, the petitioner did not choose to comply with the conditions or appear before the Investigating Officer. Since the petitioner

failed to comply with the conditions for grant of bail, the 3rd respondent filed a Criminal Petition No.4550 of 2009 to cancel the anticipatory bail granted to the petitioner-accused. In the said Criminal Petition filed by the 3rd respondent/Investigating Officer, this Court, by its order dated 30.08.2019, directed the petitioner-accused to appear before the Investigating Officer on first Sunday of every month till filing of full-fledged charge sheet.

As the petitioner failed to comply with the order of this Court dated 30.08.2019 by appearing before the Investigating Officer on the day specified; executing the personal bond as directed by this Court, the Investigating Officer sent the police staff to the house of the petitioner to secure the presence/attendance of the petitioner for the purpose of investigation as efforts to contact the petitioner on phone proved futile. Taking advantage of the visit of the staff of the 3rd respondent to the house of the petitioner at Kamalapur village, the petitioner filed the present Writ Petition on the ground that the respondent Nos.3 and 4 are harassing the petitioner by calling frequently over the phone and also by reason of sending constables to the petitioner's house as arbitrary and illegal.

As can be seen from the record, the petitioner except for salutary attendance, neither appeared before the Investigating Officer as directed by this Court nor did he execute the self bond. Though it is sought to be urged by the Counsel for the petitioner, Sri Janardhan Rao appearing on behalf of the petitioner that the petitioner had executed personal bond, but no documents have been shown to this Court. As a matter of fact, even when the petitioner moved the Court below seeking relaxation of bail conditions imposed by this Court, it was observed by the Court that no documents were produced indicating compliance with the conditions of this Court which weighed with the Court below, in dismissing the petition filed by the petitioner-accused. Even in the present Writ Petition, the same submission has been advanced by the Counsel for the petitioner and when asked for furnishing details of the sureties furnished and the copy of the bond executed, no documentary evidence was forthcoming.

Learned counsel for the petitioner further urged that the condition of execution of personal bond and furnishing of two sureties stood modified by virtue of the order passed by this Court in Criminal Petition No.4550 of 2019 dated 30.08.2010 and thus the petitioner-

accused is only required to appear before the authorities on first Sunday of every month till filing of full-fledged charge sheet.

Learned Assistant Government Pleader for Home on written instructions of the 3rd respondent dated 23.09.2019 which is placed on the record of this Court submits that even after this Court modifying the bail conditions by order dated 30.08.2019, the petitioner did not appear before the 3rd respondent on the first Sunday of the month of September and it is only in the month of October the petitioner appeared before the Investigating Officer and the appearance on the said date was duly recorded by the 3rd respondent in the General Diary maintained with a noting that the petitioner did not execute the bond as directed.

With regard to the submission of the learned counsel for the petitioner that the petitioner is not required to execute the personal bond in view of the orders passed by this Court in Criminal Petition No.4550 of 2019, the said submission is liable to be rejected for the sole reason that the Criminal Petition No.4550 of 2019 was filed by the State to cancel the anticipatory bail granted to the petitioner-accused by this Court in

Criminal Petition No.5878 of 2018 dated 05.08.2018 as subsequently modified by order dated 01.10.2018. It is not open for the petitioner to urge that in the Criminal Petition filed by the State for cancellation of the bail for non-complying with the conditions for grant of bail by the petitioner, the order in Criminal Petition No.5876 of 2018 stood modified. This Court by its order in Criminal Petition No.4550 of 2019, instead of bail being cancelled at the behest of State, permitted the petitioner to appear before the Investigating Officer on the first Sunday of the every month. It is not open/it shall not lie in the mouth of the petitioner to claim that having failed to comply with the conditions granting bail, the Court itself modified the conditions. The said submission if accepted would mean the person committing breach being *rewarded for being in breach*. The said submission on behalf of the petitioner clearly goes to show how the petitioner is trying to take advantage of the judicial process to suit his convenience and the present Writ Petition as filed for the reliefs sought for is one in such direction.

The petitioner having failed to comply with the conditions of bail granted by this Court as modified and also being unsuccessful before the Judicial Magistrate of

Ist Class, Huzurabad to have the bail conditions relaxed, taking advantage of the visit of the constables to his house in Kamalapur village, has filed the present petition which is clearly misconceived. The entire endeavour of the petitioner appears to cause delay, thereby preventing the 3rd respondent proceeding with the investigation in the matter and file charge sheet before the concerned Court, so that the matter can be proceeded with. Thus, the entire conduct of the petitioner is highly reprehensible and does not merit any consideration.

Accordingly, the Writ Petition is dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE T. VINOD KUMAR

Date: 11.11.2019

MRKR