IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
THURSDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY
:PRESENT:
THE HONOURABLE SRI JUSTICE T.VINOD KUMAR
CRL.P. NOs: 6840 AND 7020 OF 2020

CRLP.No.6840 of 2020

Between:
Bollupalli Madhavilatha S/o. Bollupalli Srinivasulu

..... Petitioner/Accused No.1

AND

The State of Telangana, represented by Public Prosecutor for the state of Telangana through P.S. Central Crime Station, Hyderabad

.....Respondent/Complainant

Petition under Sections 437 & 439 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 No.1 on bail in Crime No.141 of 2020 on the file of P.S. C.C.S, Hyderabad.

I.A. No. 1 of 2020

Petition under Section 301 of Cr.P.C., R/w 482 of Cr.P.C. praying that in the circumstances stated in the petition filed herein, the High Court may be pleased to allow the present intervention petition filed by the de-facto complainant to intervene in the Criminal Petition No. 6840 of 2020 before the Hon'ble High Court filed by the Accused in the F.I.R. No. 141 of 2020 at the Central Crime Station, Hyderabad, dismiss the Bail Petition filed by the Accused and deny bail to her

The petition coming on for hearing, upon perusing the Petition and the grounds filed in support thereof and upon hearing the arguments of Sri Resu Mahender Reddy representing Sri K Pradeep Reddy, Advocate for the Petitioner, and of Addl. Public Prosecutor for the respondent.

CRLP.No.7020 of 2020

Between:
Vankamamidi Santosh Kumar, S/o. Gopalakrishna Murthy

..... Petitioner/Accused No.2

AND

The State of Telangana, represented by its Public Prosecutor for the state of through P.S. Central Crime Station, Hyderabad.

.....Respondent/Complainant

Petition under Sections 437 & 439 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 A2 on bail in Crime No.141/2020 on the file P.S.C.C.S, Hyderabad.

The petition coming on for hearing, upon perusing the Petition and the grounds filed in support thereof and upon hearing the arguments of Sri T. Pradyumna Kumar Reddy representing Smt. N.Anula, Advocate for the Petitioner, and of Addl.Public Prosecutor for the respondent, the Court made the following.

ORDER

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

CRIMINAL PETITION Nos.6840 AND 7020 of 2020

COMMON ORDER:

These criminal petitions under Sections 437 and 439 of the Code of Criminal Procedure, 1973, are filed by the petitioners/arrayed as accused no.1 and 2 (A-1 and A-2) for grant of regular bail in Crime No.141 of 2020 dated 01.10.2020 on the file of CCS police station, Hyderabad, registered for the offences punishable under Sections 403, 409, 420 read with 34 IPC.

2. Heard Sri Resu Mahender Reddy and Sri. T. Pradyumna Reddy, learned counsel for the petitioners/A-1 and A-2 respectively, learned Additional Public Prosecutor appearing for the respondent State and Sri Tarun G. Reddy, learned Counsel appearing on behalf of the *defacto*-complainant and perused the record.

3. With the consent of the learned counsel appearing for the parties, the criminal petition is taken up for hearing through Video Conferencing in the virtual Court today, i.e. 31.12.2020.

4. Learned counsel for the petitioners would submit that a perusal of the complaint lodged by the *defacto*-complainant dated 06.08.2020, on the basis of which the present complaint has been registered by the respondent authority on 01.10.2020 would reveal that it is based on the information stated to have been given by the accused No.2 i.e., the petitioner in Criminal Petition No.7020 of 2020, the *defacto* complainant became aware of financial irregularities that are taking place in the *defacto*-complainant company, resulting in huge amount of money to the tune of

Rs. 15 crore being swindled away from the account of the company by way of illegal means. Learned Counsel for the petitioners would submit that, though it is being claimed that the accused No.2 is stated to have approached the *defacto*-complainant and brought to his notice about the financial irregularity in February, 2020, the complaint came to be lodged only in August, 2020.

5. Learned counsel for the petitioners would also submit even before lodging of the complaint relating to the alleged financial irregularity with the respondent authority, the petitioners were issued with show cause notices calling for explanation in the month of June, to which the petitioners had given their reply, would only go to show that the defacto-complainant in order to get over the contractual terms of employment governing separation, wanted the petitioners leave the service on their own, so that the *defacto*-complainant could get over the statutory requirement for payment of compensation etc., and had made false allegations relating to financial irregularities against the petitioners. It is submitted by the learned Counsel for the petitioners that, though it is claimed that the *defacto*-complainant was made aware of the financial irregularities which are alleged to have been done at the behest of the petitioner/accused No.1 in Criminal Petition No.6840 of 2020 in February, 2020, the petitioner continued to be the authorized signatory in respect of bank transactions till about 17.07.2020, which is unfathomable if only the alleged claim is correct.

6. Learned Counsel for the petitioner / Accused No.1, would further submit that the details as stated in the complaint lodged would also go to show that the monies from the company's account

have been transferred into the accounts of the Accused No.s 2, 3, 4 and 5, who it is being claimed to have confessed of receipt of money from the company's account, but, the same having been withdrawn in cash and passed on to petitioner/accused No.1 in the crime. It is thus, submitted that based on the confessional statement given by the accused, the petitioner in Criminal Petition No. 6840 of 2020 cannot be implicated in the crime as Accused No.1.

7. Learned Counsel would also submit that the petitioners were taken into judicial custody on 26.11.2020 and since, for more than 40 days, the petitioners are in judicial custody. It is also submitted that based on the petition moved by the prosecution, the custody of the accused No.1 was given to the investigating authority for a day on 10.12.2020. Thereafter, no application seeking for extension or seeking for further time for handing over the custody of accused No.1 was filed, which only goes to show that the investigating agency did not require custody of the petitioner/A-1 any further for the purpose of conducting investigation. It is also submitted by the learned Counsel for the petitioner that no benefit would be derived by keeping the petitioner in judicial custody. On the other hand, if the petitioners are granted bail and are directed to appear before the authorities and cooperate with the investigation, the investigation into the above case registered can be progressed with, so that the authorities would be able to complete the investigation and file a final report/charge sheet before the concerned Court. Learned Counsel for the petitioner/accused No.1 would also further submit that during the period 2015-16 till about 2018-19, when the

alleged financial misappropriation is stated to have taken place, the petitioner was only a second signatory along with another who was the head of the company at the relevant point of time and the said person has not been made as an accused, but the petitioner is only shown as an accused, which only goes to show that the endeavor of the *defacto* complainant to give a criminal color what is otherwise a purely an employment issue, to ensure the petitioners walk out on their own as stated above. It is also submitted by the learned Counsel for the petitioners that, since, these are financial transactions relating to transfer of monies from the accounts of the company through banking channels, the entire transactions can be traced and no useful purpose would be served by keeping the petitioners in judicial custody. It is also submitted that, since the investigating authority has examined the witnesses, namely the officials of the company and recorded their statements and the information being available with the company, the petitioners would not have any access to deal or tamper with the same. Finally, the learned counsel would submit that during the pendency of the present criminal petition, the Accused No.3 was granted bail on 24.12.2020 by the concerned Magistrate court. Therefore, the learned Counsel for the petitioners seeks for grant of bail to the petitioners and would also submit that the petitioners would abide by any conditions as may be imposed by this Court for considering grant of bail.

8. Opposing the grant of bail, the learned Additional Public Prosecutor would submit that the petitioners are involved in large scale financial irregularity to the tune of over ten crores resulting in the *defacto*-complainant suffering financial loss. But for the

information given by the accused No.2, the same would not have seen the light of the day. Learned Additional Public Prosecutor would further submit that based on the complaint made by the *defacto*-complainant, the respondent authority had registered the above crime and commenced investigation thereinto. It is also stated that in the process of investigation, the respondent authority had examined seven witnesses as of today along with two punch witnesses. It is also stated that the investigation is in advanced stage inasmuch as the investigating agency is required to collect information as to the manner and method of flow of funds from the accounts of the accused Nos.2, 3, 4 and 5 to accused No.1 and how the said funds were used by the accused. Learned Additional Pubic Prosecutor would further submit that, though the trial Court had granted custody of the petitioner/accused No.1 in Criminal Petition No.6840 of 2020, for a day, for investigation on 10.12.2020, no information could be elicited from the petitioner/accused No.1 as the petitioner / accused No.1 did not cooperate with the investigation and, as such the respondent authority did not seek for further extension of the police custody of the petitioner/accused No.1. Learned Additional Public Prosecutor would also submit that if the petitioners are enlarged on bail, the petitioner may resort to wiping out the evidences relating to illegal transactions undertaken by them, thereby hampering the process of investigation. The learned Additional Public Prosecutor would submit that the investigating agency is conducting detailed investigation into the crime registered by collecting all the linking evidences / material and thus, prays for dismissal of the present petition.

9. Sri. Tarun G. Reddy, learned Counsel appearing on behalf of the *defacto* complainant would submit that it is for this Court to consider the bail application having regard to the *prima facie* case to be established by the petitioner. However, he would submit that serious prejudice would be caused to the *defacto*-complainant, if the petitioners are granted bail, as the petitioners who are arrayed as accused Nos.1 and 2 have caused loss to the company to the extent of more than 10 crores. Learned Counsel would further submit that, though initially information was given by the accused No.2 in February, 2020, to the *defacto*-complainant, since, the authorities did not resort to taking immediate action against the petitioners merely based on the information, without the *defacto*-complainant company gathering necessary basic information or documents to show the involvement of petitioners in the misappropriation being complained of. It is only for the above said reason, no action was taken either to withdraw the cheque signing power of the accused No.1 in the above crime or the matter being complained to the respondent investigation agency. Learned Counsel would further submit that it is upon completion of the internal investigation, the petitioners were issued show cause notice and after receiving their reply and having found explanation given being not satisfactory, the *defacto*-complainant company approached the investigating authority and lodged the complaint on 06.08.2020. Learned Counsel would further submit that even if this Court is inclined to consider grant bail to the petitioners, this court may consider putting the petitioners on terms, as this court may consider deem fit in the facts of the case and also by taking note of the fact that the petitioners are a flight risk case.

10. Having regard to the submissions made as above, it is to be seen that, though the *defacto*-complainant was made aware of the financial irregularities and misappropriation being resorted to by the accused No.1 in February, 2020, no immediate action is taken to withdraw the various powers vested in petitioner / accused No.1 to deal with companies financial matters was taken, which should have been the instant reaction of the *defacto*-complainant and on the other hand the petitioner/accused No.1 was allowed to be at the helm of financial affairs of the company till the time of being issued with a show cause notice. It is also to be seen that, though the complaint was given on 06.08.2020 for the reasons best known, the same was not registered for about nearly two months and was only registered on 01.10.2020 nor the *defacto*-complainant followed up with the authorities for registration of crime, is another factor which need to be taken note of. Similarly, since, the offence for which the petitioners are charged with relating to siphoning of funds from the companies account by way of transactions through banking channels, traces of such transactions cannot be erased so easily, so as to hamper the progress of investigation by the respondent authority. In view of the weight of all the above aspects of the matter, and the legal Doctrine laid down by the Hon'ble Supreme Court of India in ***State of Rajasthan v. Balchand alias Baliya***[1], *that* – ***"Bail is Rule, Jail is Exception"***, this Court is inclined to grant bail to the petitioners, subject to the following conditions:

(i) The petitioners/A-1 and A-2 shall be released on bail on each of the petitioners executing personal bond for

[1] AIR 1977 SC 2447

an amount of Rs.1,00,000/- (Rupees One Lakh only) with two sureties each for a like sum each to the satisfaction of the XII Additional Chief Metropolitan Magistrate, City Criminal Court, Nampally, Hyderabad;

(ii) The petitioner (A.1) in Criminal Petition No.6840 of 2020 shall appear before the investigating authority on Monday, Wednesday and Friday; while the petitioner (A.2) in Criminal Petition No.7020 of 2020 shall appear before the investigating authority on Tuesday, Thursday and Saturday in between 10:00 a.m. and 5:00 p.m,, till the competition of investigation and filing of charge sheet before the concerned Magistrate court and shall cooperate with the investigating authority and produce necessary / information as may be required for expeditious investigation into the crime;

(iii) The petitioners shall deposit their passport into the XII Additional Chief Metropolitan Magistrate, City Criminal Court, Hyderabad;

(iv) The petitioners shall not leave the jurisdiction of the concerned Court without obtaining prior permission from the Court concerned;

(v) The petitioners after being enlarged on bail, shall not contact with any of the witnesses or resort to influence or intimidate the witnesses and also shall not try to remove or erase the evidence; and

(vi) If the petitioners/A-1 and A-2 fail to comply with any of the conditions stipulated hereinabove, liberty granted to them shall automatically stand cancelled and the respondent petitioners/A-1 and A-2 shall be taken into custody forthwith by following due process of law.

11. Subject to the above, both the criminal petitions are allowed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

SD/- .K.SHYLESHI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The XII Addl. Chief Metropolitan Magistrate, Nampally, Hyderabad
2. The Superintendent, Chanchalguda Jail, Hyderabad
3. The Superintendent, Chanchalguda Jail for Women, Hyderabad
4. The Station House Officer, Police Station Central Crime Station, Hyderabad
5. One CC to Sri K Pradeep Reddy, Advocate (OPUC)
6. One CC to Smt N Anula Advocate [OPUC]
7. Two CCs to the Public Prosecutor, High Court for the State of Telangana(OUT)
8. One spare copy.

HIGH COURT

TVK,J

DATED: 31.12.2020

ORDER:

CRLP. NOs: 6840 & 7020 of 2020

BAIL