

THE HON'BLE SRI JUSTICE T.VINOD KUMAR

WRIT PETITION No.28058 of 2019

ORDER:

This writ petition is filed to declare the report of the fifth respondent dated 01.11.2019 basing on which the trial Court not releasing the petitioner-A.2 on bail, who is accused in Cr.No.111/2019, though the Court below granted bail on 11.09.2019 as illegal, arbitrary and contrary to Section 442 of Cr.P.C.

2. Heard the learned counsel for the petitioner, learned Assistant Government Pleader for Home for respondents 1 to 5 and Sri Ashok Ram Kumar, learned counsel for respondent No.6.

3. Counter affidavits on behalf of official respondent No.5 and unofficial respondent No.6 are filed. As seen from the documents filed into this Court, the trial Court in Cr.I.M.P.No.473 of 2019 in Cr.No.111 of 2019, dated 11.09.2019, granted bail to the petitioner-A.2 along with another, who is accused No.4 in the above said crime, taking note of the fact that the petitioner along with accused No.4 therein in the above said crime was in judicial custody since 29.08.2019. The trial Court while granting bail to the petitioner imposed certain conditions. The conditions that were imposed for the petitioner to be enlarged on bail are, (1) the petitioner was required to furnish two sureties for Rs.25,000/- (rupees Twenty Five thousand only) each and (2) executing a personal bond for a like-sum for each accused.

3. Learned counsel for the petitioner submits that pursuant to the order of the trial Court granting bail with the conditions as noted above, the petitioner herein has secured two sureties by name (1) Gopesh Pal

Singh, s/o Gopal Singh and (2) Vikas Singh Solaki s/o Ramesh Singh, both residents of Faridabad to stand as sureties for the petitioner for the amount as mentioned in the order of the trial Court granting bail.

4. It is submitted by the learned Assistant Government Pleader for Home that the respondent police authorities pursuant to the orders of the trial Court granting bail contacted the said sureties but they did not respond to the phone call nor attended the police station for verification. Since, the sureties did not standup to secure the presence of the accused at a later date, the police authorities claimed to have submitted the report dated 01.11.2019 based on which the sureties furnished by the petitioner were not accepted by the trial Court enabling the petitioner to be enlarged on bail.

5. The learned Counsel appearing for the 6th respondent would submit that if the petitioner is enlarged on bail, there is a risk to the life and liberty of the 6th respondent, as it is based on her complaint, the respondent police have registered a case and arrested the petitioner.

6. Though various submissions were made by the learned counsel for the petitioner with regard to the petitioner to be released on bail, once a bond has been executed by the surety and requiring the person to be discharged from custody, the provisions of Section 441 (4) of Cr.P.C makes it clear that the Court while granting bail on furnishing of sureties, for the purpose of determining whether the sureties are fit or sufficient, may either hold an enquiry itself or cause an enquiry to be made by the Magistrate subordinate to the Court, as to the sufficiency or fitness of the surety if it considers necessary.

7. Since, the trial Court while granting bail having regard to the fact that the petitioner is a Nigerian and the sureties being from Faridabad, a place outside the State of Telangana, sought for the sufficiency of such sureties to be enquired into whereupon the 5th respondent had sought to cause an enquiry and as the said sureties did not respond resulting in the report being furnished as to insufficiency of the said sureties.

8. When queried by this Court, learned counsel for the petitioner asserts before this Court that the said persons who stood as sureties for the petitioner are ready and willing to stand as surety for the petitioner-A.2, even now and would produce them before any authority as may be directed by this Court.

9. Having regard to the said submissions made, in order to ensure whether the sureties furnished by the petitioner as noted herein above, would stand as surety for the petitioner, this Court is of the view that the petitioner be directed to ensure appearance of the said sureties before the fourth respondent/Assistant Commissioner of Police, Cyberabad Commissionerate, Gachibowli, who shall verify the details of the said sureties and that the surety offered by them is sufficient to secure the presence of the petitioner in the Cr.No.111 of 2019 pending its investigation and trial hereafter.

10. If on appearance of the said sureties before the fourth respondent/Assistant Commissioner of Police, Cyberabad Commissionerate, Gachibowli and the said authority finding the said sureties to be acceptable, he shall prepare a report and submit the same to the trial Court which granted bail in CrI.M.P.No.473 of 2019 in Cr.No.111 of 2019, dated 11.09.2019, to enable the said Court to take the same on record and pass necessary orders thereon.

11. Insofar as the apprehension expressed by the 6th respondent for her life, in the event petitioner being released on bail, the respondent police authorities shall take note of the same, while preparing the report to be submitted to the trial Court and sensitize the trial Court about any risk to the defacto-complainant.

12. Subject to the above, the writ petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

Date:28.02.2020
grk

JUSTICE T.VINOD KUMAR

