

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**WEDNESDAY, THE FIRST DAY OF DECEMBER TWO THOUSAND AND TWENTY
ONE**

**:PRESENT:
THE HONOURABLE SMT JUSTICE LALITHA KANNEGANTI**

CRIMINAL PETITION NO: 8141 OF 2021

Between:

Mr.Rasheed Bin Sayeed Hamdi, S/o Syed Hamdi

Petitioner/Accused No.2

AND

The State of Telangana, Rep.by its Public Prosecutor, High Court Building at
Hyderabad, Through PS., Banjara Hills, Hyderabad.

Respondent/Complainant

Petition under Section 438 of Cr.P.C, praying that in the circumstances stated in the Criminal Petition, the High Court may be pleased to direct the S.H.O PS, Banjara Hills, Hyderabad to release the petitioner on bail in the event of his arrest in Cr.No.721 of 2021 on the file of its PS, Banjara Hills, Hyderabad in the interest of justice.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri C KUMAR, Advocate for the Petitioner, PUBLIC PROSECUTOR for the Respondent, the Court made the following.

ORDER:

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NO. 8141 OF 2021

ORDER :

Heard learned counsel for the petitioner/A.2 and learned Assistant Public Prosecutor. Perused the record.

2. This criminal petition is filed under Section 438 Cr.P.C. seeking pre-arrest bail to the petitioner/A.2 in the event of his arrest in connection with Crime No.721 of 2021 of Banjara Hills Police Station, Hyderabad, registered for the offences punishable under Sections 452, 307, 384, 427, 148 read with 149 IPC.

3. The case of the prosecution is that the complainant is a senior citizen and his wife is the owner of the house bearing No.8-2-684/3/60, Banjara Green Colony, Road No.12, Banjara Hills, Hyderabad. On 06.10.2021 at about 0200 hours when the complainant and his family members and workers were sleeping in the said house, the accused entered into the house and beaten them with iron rods and sticks, with an intention to kill them, for which they received injuries. The accused extorted two cell phones and damaged the car. When the patrolling police came to the complainant's house, the accused escaped from the spot. The house was given on rent to A1. The accused forged the documents and trying to knock away the property.

4. Learned counsel for the petitioner submitted that there are civil disputes between the petitioner and the *de facto* complainant and that according to the complainant, the petitioner/A.2 was not present at the scene of offence. Learned counsel also submitted that in fact, the wife of the complainant executed agreement of sale on 24.08.2016 in favour of the petitioner and handed over possession on

09.11.2018 after evicting A.1 from the property through judgment and decree dated 12.02.2018, which was confirmed by this Court. Learned counsel submitted that though agreement of sale was executed, after receiving sale consideration, the wife of the complainant failed to execute sale deed and as such the petitioner filed O.S.No.365 of 2019 seeking specific performance of contract and the same is pending. Learned counsel also submitted that on 23.02.2019, all of sudden, the bailiff of the Court visited the subject property with warrant and tried to evict the petitioner, but not executed the warrant as A1, who is original tenant, is not in possession of the property. While so, the petitioner filed claim petition i.e. E.A.No.152 of 2019. The wife of the complainant, instead of filing counter in the claim petition, filed E.A.No.151 of 2019 to reject the claim petition of the petitioner, but the same was dismissed by the Court below as detailed enquiry is required in the claim petition. Earlier, the police registered another case in Crime No.701 of 2021 on 02.10.2021 against the petitioner and another under Sections 448 and 506 IPC wherein the very same *de facto* complainant alleged that A-1 allegedly trying to trespass into the subject property even though the petitioner is in actual and physical possession of the property. In view of non filing of medical certificate in proof of injuries sustained by the complainant and his wife, it is to say that there are grievous injurious and hence, Section 307 IPC has no application. Therefore, the petitioner can be considered for pre-arrest bail.

5. On the other hand, learned Assistant Public Prosecutor submitted that A.1 was already arrested and the petitioner/A.2 is absconding and hence, A2 is not entitled for pre-arrest bail.

6. In reply, learned counsel for the petitioner/A.2 submitted that in fact, petitioner/A.2 is very much available.

7. Taking into consideration the fact that there are civil disputes between the petitioner and the *de facto* complainant and hence, it is appropriate to grant pre-arrest bail to the petitioner/A.2 on certain conditions.

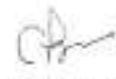
8. Accordingly, this Criminal Petition is allowed and the petitioner/A.2 shall be released on bail in the event of his arrest in connection with Crime No.721 of 2021 of Banjara Hills Police Station, Hyderabad, on his executing a personal bond for Rs.20,000/- (Rupees twenty thousand only) with two sureties for a like sum each to the satisfaction of the Station House Officer, Banjara Hills Police Station, Hyderabad on the following conditions:

1. The petitioner shall personally appear before the Station House Officer on every Saturday between 12.00 Noon and 5.00 P.M., till completion of the investigation.
2. He shall co-operate with the investigating officer.
3. He shall not indulge in any criminal activity and shall not misuse the bail granted to him.
4. He shall not threaten the witnesses tamper the evidence.

Miscellaneous petitions, if any, shall stand dismissed.

SD/- K AMMAJI
Assistant Registrar

//TRUE COPY//


SECTION OFFICER

To,

1. The Metropolitan Sessions Judge, Hyderabad.
2. The III Addl. Chief Metropolitan Magistrate, Hyderabad.
3. The Station House Officer, PS., Banjara Hills, Hyderabad.
4. One CC to SRI C KUMAR Advocate [OPUC]
5. Two CC to PUBLIC PROSECUTOR, High Court at Hyderabad (OUT)
6. One spare copy

mvj

HIGH COURT

LK,J

DATED:01/12/2021

ORDER

CRLP.No.8141 of 2021

BAIL

