

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION No.8149 of 2021

ORDER:

This petition is filed under Sections 437 and 439 of Code of Criminal Procedure, 1973 seeking regular bail to the petitioner/A-5 in connection with Crime No.78 of 2021 of Central Crime Station, Hyderabad Police Station, registered for the offences punishable under Sections 406, 420, 409, 120-B read with Section 34 IPC.

2. The case of the prosecution is that the de-facto complainant- Deputy Vice President, HDFC Bank, lodged a complaint stating that A2 to A4 being Directors of Karvy Stock Broking Limited (KSBL), Gacibowli, Hyderabad, availed several credit facilities from the Bank in the form of loan against shares (LAS), Issuers Risk (sublimit of LAS), Drop Line Overdraft Cash Credit, Bank Guarantee and Short-Term Loan since 2003 and the same were renewed and enhanced from time to time. In December, 2019, the complainant Bank has extended aggregate LAS facility to KSBL to the tune of Rs.350.00 crores, out of which Rs.208.50 crores, remains due, but surprisingly, on 22.11.2019, the Securities Exchange Board of India passed an order suspending the trading permission to deal with the shares and A2 to A4 also failed to provide necessary documents to the Forensic Auditor, due to which, the complainant Bank classified their accounts as 'fraud' and reported to RBI and the amount due and payable as on 03.12.2019 is Rs.329,16,74,474/-, thereby the accused cheated the Bank.

3. Heard Mr. Vikram. P for Ms. Aahana, learned counsel for petitioner and learned Assistant Public Prosecutor for respondent-State.

4. Learned counsel for the petitioner submits that the petitioner is languishing in jail since 03.09.2021 and that she was neither Director nor involved in day-to-day activities of A1 company. It is submitted that as the petitioner is languishing in jail from the last 94 days, she is entitled for default bail. He relied on the decision of Hon'ble Apex Court in **Rakesh Kumar Paul Vs. State of Assam**¹, wherein it was held thus:

30. In view of the above discussion, my findings are as follows:

1. I agree with both my learned brothers that the amendment made to the Prevention of Corruption Act, 1988 by the Lokpal and Lokayuktas Act, 2013 applies to all Accused charged with offences under this Act irrespective of the fact whether the action is initiated under the Lokpal and Lokayuktas Act, 2013, or any other law;
2. Section 167(2)(a)(i) of the Code is applicable only in cases where the Accused is charged with (i) offences punishable with death and any lower sentence; (ii) offences punishable with life imprisonment and any lower sentence and (iii) offences punishable with minimum sentence of 10 years;
3. In all cases where the minimum sentence is less than 10 years but the maximum sentence is not death or life imprisonment then Section 167(2)(a)(ii) will apply and the Accused will be entitled to grant of 'default bail' after 60 days in case charge-sheet is not filed.
4. The right to get this bail is an indefeasible right and this right must be exercised by the Accused by offering to furnish bail.

Relying on the above judgment, she submits that petitioner is languishing in jail from the last 94 days and as the police failed to file charge sheet, petitioner is entitled for default bail.

5. *Per contra*, learned Assistant Public Prosecutor also does not dispute the fact that the petitioner is entitled for default bail as she is in jail from the last 94 days and the police failed to complete the investigation and no charge sheet is filed.

6. Having heard the learned counsel on either side and in view of findings of the Hon'ble Apex Court in **Rakesh Kumar Paul's** case (supra) and as per Section 167(2) Cr.P.C., this Court deems it appropriate to grant bail to the petitioner.

¹ 2017 (2) ALT (CrL.) 141 (SC)

7. In the result, the criminal petition is allowed and the petitioner/A-5 shall be enlarged on bail in connection with Crime No.78 of 2021 of Central Crime Station, Hyderabad, on her executing a personal bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties for a like sum each to the satisfaction of the XII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad. The petitioner shall cooperate with investigation and shall not influence the witnesses and tamper with evidence. If the petitioner fails to comply with any condition, the prosecution is at liberty to file an appropriate application seeking cancellation of bail.

8. As a sequel, pending miscellaneous applications, if any, shall stand closed.

LALITHA KANNEGANTI, J

6th December, 2021

sj