

HONOURABLE SMT JUSTICE LALITHA KANNEGANTI**CRIMINAL PETITION NO.8525 OF 2021****ORDER:**

1. This petition is filed under Section 438 of the Code of Criminal Procedure, 1973 (for short “Cr.P.C.”) seeking pre-arrest bail to the petitioner/accused in the event of their arrest in connection with Crime No.25 of 2020 of Shalibanda Police Station, registered for the offence punishable under Sections 309 of the Indian Penal Code, 1860 (for short ‘IPC’).

2. The case of prosecution is that a report was lodged by the defacto complainant stating that on 19-2-2020 at about 1300 hours he received a phone call from his father’s friend by name Md. Mahmood Khan stating that his father Krishna Reddy came to his residence in drunken condition at Phool baugh, Jahanuma, Hyderabad to discuss the family matter and after 15 minutes he went outside to call his son, who went to collect the Xerox copy and at that time he heard shouting from inside his house by calling his name Md. Mahmood Khan. By the time when he went inside his house then his father was vomiting. Thereafter he shifted his father to KAM hospital on auto and they said to shift his father to Asra Hospital and then he shifted to Asra Hospital and from there to Osmania General Hospital at about 04:00 p.m. wherein they stated that the patient consumed some unknown poison. When he went to Osmania General Hospital, wherein he saw that his father is undergoing treatment. On 20-02-2020 he lodged a complaint with the Police. On the basis of the complaint, Crime No. 25 of 2020 was registered for an offence under section 309 IPC. He relied on the judgment of the Hon’ble Apex Court in **Siddharam Satlingappa Mhetre Vs. State of Maharashtra**¹.

5. On the other hand, the learned Assistant Public Prosecutor though opposed the bail application. He submits that this is a second bail application and the earlier bail application was dismissed vide CrI.P.No.5725 of 2021 without looking at the nature of the allegations against the petitioner and his involvement in the commission of offence. He submits that there are no changed circumstances and the second bail application is not maintainable.

¹ AIR 2011 SC 312 = MANU/SC/1021/2010

6. As per law, the Hon'ble Apex Court in **Siddharam Satlingappa Mhetre Vs. State of Maharashtra** has formulated the guidelines to be taken into consideration while granting bail, as under:

- i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;
- iii. The possibility of the applicant to flee from justice;
- iv. The possibility of the accused's likelihood to repeat similar or the other offences.
- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.
- vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of Sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;
- viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;
- ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

6. Taking into consideration the facts of the case, this Court deems it appropriate to grant pre-arrest bail to the petitioner.

7. Accordingly, this Criminal Petition is allowed. The petitioner-accused shall be released on bail in the event of his arrest in connection with Crime No.25 of 2020 of Shalibanda Police Station, on condition of their executing self bond for Rs.20,000/- (Rupees twenty thousand only) each with two sureties for a like sum each to the satisfaction of the Station House Officer, Shalibanda Police Station, Hyderabad district.

8. Consequently, miscellaneous applications, if any, pending, shall stand closed.

25th November, 2021.
I S L

LALITHA KANNEGANTI, J .