

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

CRIMINAL PETITION NO.8956 OF 2021

ORDER:-

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 petitioners/A.1 and A.2 in the event of their arrest in connection with Crime No.376 of 2021 of Karimnagar I Town Police Station, Karimnagar District, registered for the offences punishable under Sections 467, 471 and 420 of the Indian Penal Code, 1860 (for short 'IPC').

2. The case of prosecution is that a report was lodged by the *de facto* complainant stating that he went to Delhi to receive Swachh Sarvekshan on 17.11.2021 and returned on 22.11.2021. After returning, he came to know that the petitioners were forged his signature in the MLC election nomination form, which was used as genuine, and the same was submitted before the District Collector, Karimnagar (RO), as a candidate for MLC Elections. Basing on the said report, the present crime is registered.

3. Heard Mr.K. Venumadhav, learned counsel for the petitioners, and learned Assistant Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioners submits that Section 467 of IPC do not attract against the petitioners, as they have not forged any signatures. The registration of criminal proceedings against the

petitioners is nothing but an abuse of process of law and it is purely on political reasons. He submits that election notification was issued on 09.11.2021 and the petitioners approached the *de facto* compliant on 16.11.2021 and requested him to sign on the nomination forms of both the petitioners on two sets each. The *de facto* complainant has accepted to act as a proposer and had signed on the nomination form of each petitioner. Along with the petitioners, there are about nine other persons, who have signed on the nomination forms. The alleged documents are not in the custody of the petitioners, therefore, the question of tampering the same does not arise. As such, their case may be considered for grant of pre-arrest bail.

5. On the other hand, learned Assistant Public Prosecutor submits that petitioners herein are committed the offences for the offences punishable under Sections 467, 471 and 420 of IPC. As investigation is pending, the petitioners are not entitled for pre-arrest bail.

6. The Hon'ble Supreme Court in **Siddharam Satlingappa Mhetre Vs. State of Maharashtra**¹ 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;

¹ AIR 2011 SC 312 = MANU/SC/1021/2010

- 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;
- x. 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.”

7. Taking into consideration the fact that entire material is before the prosecution and even if the petitioners are enlarged on bail, there cannot be any apprehension for the prosecution that they may tamper with the evidence, this Court deems it appropriate to grant pre-arrest bail to the petitioners/A.1 and A.2.

8. Accordingly, this Criminal Petition is allowed. Petitioners/A.1 and A.2 shall surrender before the Station House Officer, Karimnagar I

Town Police Station, Karimnagar District, in connection with Crime No.376 of 2021 within one week from today and on such surrender and executing personal bonds for a sum of Rs.20,000/- (Rupees twenty thousand only) each with two sureties for a like sum each to the satisfaction of the said Station House Officer, they shall be released on bail. It is made clear that no further extension of time will be granted.

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

LALITHA KANNEGANTI, J

Date :08.12.2021

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THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

Allowed
anticipatory

CRIMINAL PETITION No. 4767 of 2021

01.09.2021

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