

Hon'ble Dr. Justice Chillakur Sumalatha

Criminal Petition No.446 of 2022

ORDER:

This is a petition filed under Section 439 Cr.P.C. seeking the Court to enlarge the petitioner who is an accused in S.C.No.103 of 2019, on the file of the Court of VII Additional Metropolitan Sessions Judge-cum-XXI Additional Chief Judge, Hyderabad, on bail. The said case was being dealt with for the offence punishable under Section 307 I.P.C.

2. Heard the submission of the learned counsel appearing for the petitioner/accused and the learned Assistant Public Prosecutor, who is appearing for the Respondent.

3. Learned counsel for the petitioner submits that the petitioner is an accused in S.C.No.103 of 2019, which is pending before the Court of VII Additional Metropolitan Sessions Judge, Hyderabad. Learned counsel for the petitioner also states that the petitioner was enlarged on bail by the Sessions Court and unknowingly the petitioner after obtaining bail, left India and thereafter, on numbering the Sessions Case, summons were issued and as the summons could not be served upon the petitioner/accused, Non-bailable warrant was issued against him. He also states that the petitioner returned India and on that the Non-bailable warrant was executed and he was remanded to judicial custody on 13.12.2021 and since then he is in jail and indeed

the matter is also compromised between the parties and thus, the petitioner may be enlarged on bail.

4. On the other hand, learned Public Prosecutor submits that the petitioner has left India though the criminal case is pending against him and after he came to India he was arrested and the proceedings were stalled due to absence of the petitioner.

5. Thus, in the light of above contentions and rival contentions, the point that arises for consideration is:

Whether the petitioner/accused is entitled to bail as prayed for?

6. It is not in dispute that on completion of investigation charge sheet is filed. It is also not in dispute that the petitioner was enlarged on bail by the competent Sessions Court earlier. As the petitioner failed to make his appearance before the Criminal Court during the course of proceedings, Non-bailable warrant was issued and on execution of Non-bailable warrant, the petitioner was remanded to judicial custody. The petitioner is not expected to leave the Country when criminal proceedings stood pending against him. However, this Court is of the view that as the learned counsel for the petitioner submits that the petitioner will not leave the Country hereafter till the conclusion of the proceedings, it is desirable to enlarge the petitioner on bail conditionally.

7. Resultantly, the petition is allowed. The petitioner/accused shall be enlarged on bail on his executing a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties for a likesum each to the satisfaction Court of VII Additional Metropolitan Sessions Judge-cum-XXI Additional Chief Judge, Hyderabad.

8. The sureties are directed to submit two latest passport size photographs at the time of furnishing solvency. One such photograph is ordered to be pasted in the Surety Register against the name of the surety. The other photograph shall be kept in the case record concerned.

The petitioner/accused shall oblige the following conditions:

- (i) The petitioner/accused shall surrender his passport before the Court below, if not already seized by the police.
- (ii) The petitioner/accused shall give an undertaking that he would not leave the Country till conclusion of the proceedings in the Criminal case.
- (iii) Should not involve in any unlawful activity.
- (iv) Should not cause the evidence of the offence disappear.
- (v) Should not tamper with the evidence in any manner.
- (vi) Should not by way of inducement, threat or promise, dissuade any person who is acquainted with the facts of the case, from disclosing such facts to the Court or to the Police Officer.

(vii) Should ensure his presence whenever required by the Court or Police.

(viii) Any deviation of the above conditions would entitle the respondent to take appropriate steps for cancellation of the bail.

Miscellaneous petitions, if any, pending shall stand closed.

Dr. Justice Chillakur Sumalatha

31st January, 2022

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Date:31.01.2022

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