

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.8753 of 2022

ORDER:

1. Heard Sri Brahmadandi Ramesh, learned counsel appearing for the petitioners/Accused Nos.1 to 4 as well as the learned Assistant Public Prosecutor, who is appearing for the Respondent-State.

2. Seeking the Court to enlarge the petitioners, who are arrayed as Accused Nos.1 to 4 in Crime No.139 of 2022 of Indalwai Police Station, Nizamabad District, on bail, the present Criminal Petition is filed.

3. Learned counsel for the petitioners states that the petitioners have not committed any offences whatsoever and a false case is foisted against them. Learned counsel further submits that to get over the requirement to follow the guidelines issued by the Hon'ble Apex Court in *Arnesh Kumar Vs. State of Bihar*¹, Section 307 IPC is added and indeed, the petitioners never intended or attempted to kill anyone. Learned counsel further submits that the petitioners are in judicial custody since 16.09.2022 and therefore, they may be enlarged on bail.

¹ (2014) 8 SCC 273

4. On the other hand, learned Assistant Public Prosecutor states that the petitioners/Accused Nos.1 to 4 obstructed public servants from performing their duties and those public servants even received simple injuries. Learned Assistant Public Prosecutor by stating so opposes the relief sought for. Learned Assistant Public Prosecutor also brought to the notice of this Court that the 1st petitioner/Accused No.1 is involved in five other criminal cases. The list of criminal cases is forwarded. A perusal of the said list goes to show that all the cases are registered for the offences punishable under Section 378 IPC, Section 3 of the Prevention of Damage to Public Property Act, 1984 and Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957.

5. The case of the prosecution in brief as could be perceived through the contents of the complaint are that the *de facto* complainant, who is a Forest Beat Officer of Gouraram Village, received reliable information about sand being illegally transported and on that, he along with his colleagues went to KK Thanda forest area and found a numberless tractor there. Immediately, they started bringing the said tractor to their Range Office and on the way, the petitioners misbehaved with them, beat them, attempted to kill them and forcibly took away the tractor.

6. The submission of the learned counsel for the petitioners is that the petitioners have not committed any offence punishable under Section 307 IPC, but to overcome the requirement to issue notice under Section 41A Cr.P.C., Section 307 IPC is added.

7. Having considered the submission of the learned counsel for the petitioners and the learned Assistant Public Prosecutor and also taking into consideration the facts and circumstances of the case, this Court considers desirable to honour the request of petitioner Nos.2 to 4/Accused Nos.2 to 4 only.

8. Resultantly, the Criminal Petition is allowed in part. Petitioner Nos.2 to 4/Accused Nos.2 to 4 in Crime No.139 of 2022 of Indalwai Police Station, Nizamabad District, shall be enlarged on bail on their executing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties for a likesum each to the satisfaction of the Court of II Additional Judicial Magistrate of First Class, Nizamabad. The sureties are directed to submit their 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.

9. The petitioner Nos.2 to 4/Accused Nos.2 to 4 shall oblige the following conditions:

- (i) They shall surrender their passports, in case they possess, before the Court below, if not already seized by the police.
- (ii) They shall give an undertaking that they would not leave the Country till conclusion of the proceedings in the Criminal case.
- (iii) They should not involve in any unlawful activity.
- (iv) They should not cause the evidence of the offence disappear.
- (v) They should not tamper with the evidence in any manner.
- (vi) They 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) They should ensure their presence whenever required by the Court or Police concerned.

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

10. The Criminal Petition so far as petitioner No.1/Accused No.1 is concerned stands dismissed.

11. Miscellaneous petitions, if any, pending shall stand closed.

Dr.JUSTICE CHILLAKUR SUMALATHA

Date: 06.10.2022

Note: Issue C.C. today.
KL/Rds