

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.9816 of 2022

ORDER:

Heard Sri V.Raghunath, learned counsel for the petitioner, as well as learned Additional Public Prosecutor who is representing the respondent.

2. This Criminal Petition is filed under Section 439 Cr.P.C. seeking the Court to enlarge the petitioner, who is arrayed as accused No.7 in S.C.No.59 of 2020 on the file of the Court of Principal District and Sessions Judge, Rajanna-Sircilla District, on bail.

3. Vigorously arguing, learned counsel for the petitioner states that initially, a case was registered against the petitioner in Crime No.33 of 2013 of Vemulawada Police Station on 12.02.2013. Learned counsel states that the petitioner who is arrayed as accused No.7 was arrested on 20.7.2013 in the said case and was remanded to judicial custody. Learned counsel submits that the petitioner moved an application for grant of bail and bail was accordingly granted and he was released on 08.10.2013. Learned counsel also submits that the petitioner was attending the Court

regularly thereafter, and the case was given a P.R.C. number and later, the case was committed to the Sessions Court. Learned counsel submits that due to ill-health, the petitioner could not attend the Court after committal of the case and a non-bailable warrant was issued against him on 16.02.2018 and on execution of the said non-bailable warrant, he was arrested, produced before the Court concerned and was remanded to judicial custody on 01.8.2022. Learned counsel also states that the petitioner is aged about 76 years and he underwent two surgeries and as he was acutely ill and bed ridden, he could not attend the Court below and his health condition has not improved still. Learned counsel by submitting thus, seeks the Court to enlarge the petitioner on bail.

4. Opposing the relief sought for, the learned Additional Public Prosecutor contends that there are several other cases pending against the petitioner and the petitioner willfully failed to attend the Court below and therefore, the Court below issued a non-bailable warrant against him. Learned Additional Public Prosecutor states that even after issuance of non-bailable warrant, the petitioner did not turn up till the

said warrant was executed and was arrested. Learned Additional Public Prosecutor states that the proceedings before the trial Court are stalled due to the absence of the petitioner and therefore, he should not be enlarged on bail.

5. By the material available on record, it is clear that two successive bail applications filed by the petitioner before the Sessions Court stood dismissed. The grounds projected are the age of the petitioner and his ill-health. The same grounds were also urged before the Sessions Court, but the Sessions Court has not taken into consideration the said grounds. Learned counsel states that the petitioner underwent surgery at AIG Hospital, Hyderabad and due to ill-health only, he could not attend the Court concerned.

6. The Medical Note issued by the Deputy Civil Surgeon, Central Prison Hospital, Hyderabad, dated 18.11.2022, reveals that on 14.8.2022, the petitioner was referred to Gandhi Hospital, Secunderabad in light of his complaint of chest discomfort and dyspnea and he was admitted on 15.8.2022 and was discharged on 16.8.2022. It is also mentioned that he was diagnosed as unstable angina and he was also advised medication. It is also mentioned in the said

Medical Note that he is suffering with Diabetes Mellitus and Hypertension and it is a known case of Coronary arterial disease. It is also mentioned that and Coronary angio bypass graft was done in the year 2001 at Care Hospital, Nampally, Hyderabad and he also underwent PTCA six times successively and he had Cerebro vascular accident in 2011-2012 and underwent bur hole surgery at Care Hospital, Nampally, Hyderabad. It is also mentioned that he underwent Cystectomy in the year 2006 and is having spinal cord lumbar stenosis and both knee joint Osteo arthritis.

7. The Medical Note thus issued strengthens the submission of the learned counsel for the petitioner about the ill-health of the petitioner and the reasons for his absence before the Court below. Though it is cannot be held that the said reason is the sole ground for the absence of the petitioner to attend before the Court below for such a long period, however, the said reason can be taken into consideration so as to enlarge the petitioner on bail as prayed for. There is no material before this Court to show that the petitioner would fail to attend the Court below in future and would stall the proceedings. Therefore, this Court considers it

desirable to honour the request of the petitioner, however conditionally.

8. Resultantly, this Criminal Petition is allowed with the following conditions:-

(i) The petitioner/accused No.7 shall be enlarged on bail on his executing a personal bond for Rs.50,000/- (Rupees Fifty thousand only) with two sureties for the like sum each to the satisfaction of the Court of Principal District and Sessions Judge, Rajanna-Sircilla District. 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.

(ii) In case, the petitioner/accused No.7 holds a passport, he is directed to surrender the same, if it is not seized by now.

(iii) The petitioner/accused No.7 is directed not to leave Rajanna-Sircilla District until the conclusion of trial proceedings in S.C.No.59 of 2020 on the file of the Court of Principal District and Sessions Judge, Rajanna-Sircilla District,

except on obtaining prior permission from the said Court.

(iv) In case, the petitioner requires any medication at any other place, he shall intimate through his counsel to the Court concerned and obtain permission from the Court.

(v) In case, the petitioner could not obtain prior permission due to his health condition, on admission at any hospital, the counsel for the petitioner shall intimate the same to the Court concerned by producing sufficient medical proof to that effect within reasonable time.

(vi) The petitioner/accused No.7 shall file an affidavit before the court concerned disclosing the following particulars:-

- (1) Contact number
- (2) Mail address
- (3) Residential particulars.

In case, there is any change in the aforementioned details, the petitioner shall intimate the court concerned by giving a fresh affidavit duly mentioning the change. He shall continue to do so till conclusion of proceedings in the Sessions Case in question.

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

9. As a sequel, miscellaneous petitions pending, if any, shall stand closed

Dr. JUSTICE CHILLAKUR SUMALATHA

25.11.2022
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