

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.10178 of 2022

ORDER:

Heard Sri Mummaneni Srinivasa Rao, learned counsel for the petitioner, as well as learned Additional Public Prosecutor who is representing the respondent.

2. Seeking the Court to enlarge the petitioner, who is arrayed as accused No.1 in Crime No.264 of 2022 of Nacharam Police Station, Medchal-Malkajgiri District, on bail, the present Criminal Petition is filed.

3. Learned counsel for the petitioner states that the petitioner is implicated in a false case. Learned counsel also submits that the petitioner is a driver by profession. Learned counsel by bringing to the notice of this Court few facts, contends that the case would not stand against the petitioner and thus, he is entitled for bail. Learned counsel submits that when the Sub-Inspector of Police, Nacharam Police Station, received information on 28.6.2022 at 2.30 pm, the warrant to enter and search issued by the Assistant Commissioner of Police reveals that the information was received on 28.6.2022 at 1.45 pm by the Sub-Inspector of

Police. Learned counsel also submits that the letter addressed by the Sub-Inspector of Police, Nacharam Police Station to the Assistant Commissioner of Police seeking to accord permission to conduct search was received by the Assistant Commissioner of Police on 01.7.2022, which itself goes to show that the warrant issued anti-dated is a concocted one. Learned counsel further submits that the petitioner is in judicial custody since 28.6.2022 and is a permanent resident of Hyderabad city and hence, the question of his fleeing from justice does not arise and further, due to the lacunae in the case of the prosecution, the case itself would not stand and therefore, the petitioner may be enlarged on bail.

4. Learned Additional Public Prosecutor submits that seven witnesses were examined till now. Therefore, it is clear that material part of investigation is completed. Learned Additional Public Prosecutor contends that the petitioner is involved in two other criminal cases.

5. However, Learned Additional Public Prosecutor has fairly conceded that there is some discrepancy and mis-match in the time regarding the communication received,

the date on which permission was sought for to conduct search and the warrant issued.

6. Thus, taking into consideration the material that is brought on record, the discrepancy and the lacunae projected and the stage of investigation, this Court considers it desirable to honour the request of the petitioner, however conditionally.

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

(i) The petitioner/accused No.1 shall be enlarged on bail on his executing a personal bond for Rs.1,00,000/- (Rupees One lakh only) with two sureties for the like sum each to the satisfaction of the Court concerned. 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.1 holds a passport, he is directed to surrender the same, if it is not seized by now.

(iii) The petitioner/accused No.1 should not involve in any unlawful activity.

(iv) The petitioner/accused No.1 should afford all assistance for proper investigation of the case.

(v) The petitioner/accused No.1 should not cause the evidence of the offence disappear.

(vi) The petitioner/accused No.1 should not tamper with the evidence in any manner.

(vii) The petitioner/accused No.1 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.

(viii) The petitioner/accused No.1 should ensure his presence whenever required by the Court or Police.

(ix) The petitioner/accused No.1 shall not leave India without previous permission of the court concerned.

(x) The petitioner/accused No.1 shall report before the Station House Officer, Nacharam Police Station on every Monday between 10.30 a.m. and 12.00 p.m. till filing of the final report.

(xi) The petitioner/accused No.1 is directed not to leave Hyderabad city till conclusion of trial proceedings before the Court concerned. In case, the action is dropped, the condition imposed would become inoperative and in case, the charge sheet is filed against the petitioner, he shall oblige by the condition and remain in the limits of Hyderabad city till conclusion of trial proceedings and pronouncement of judgment.

(xii) The petitioner/accused No.1 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 filing of the final report.

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

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

Dr. JUSTICE CHILLAKUR SUMALATHA

23.11.2022
DR