

IN THE HIGH COURT FOR THE STATE OF TELANGANA

Criminal Petition Nos.10609, 10610 and 10621 of 2022

Criminal Petition No.10609 of 2022

Between:

Kore Nandu Kumar,
S/o K.Shankarappa

... Petitioner/accused No.2

And

The State of Telangana through
Public Prosecutor, High Court of
Telangana, Hyderabad

...Respondent

Criminal Petition No.10610 of 2022

Between:

Rama Chandra Bharati @ Satish Sharma
VK Rao, S/o Late Krishnamurthy

... Petitioner/accused No.1

And

The State of Telangana through
Public Prosecutor, High Court of
Telangana, Hyderabad

...Respondent

Criminal Petition No.10621 of 2022

Between:

DPSKVN.Simhayaji,
S/o Late D.V.Ramana Rao

... Petitioner/accused No.3

And

The State of Telangana through
Public Prosecutor, High Court of
Telangana, Hyderabad

...Respondent

JUDGMENT PRONOUNCED ON 01.12.2022

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

1. Whether Reporters of Local newspapers : Yes/No
may be allowed to see the Judgment?
2. Whether the copies of judgment may be
marked to Law Reporters/Journals? : Yes/No
3. Whether her Lordship wishes to
see the fair copy of the Judgment? : Yes/No

Dr. JUSTICE CHILLAKUR SUMALATHA

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< Gist:

> Head Note:

! Counsel for accused No.1: Mr. Immaneni Rama Rao

! Counsel for accused No.2: Mr. L.Ravi Chander

Senior counsel representing
Mr. G.Naga Raju

! Counsel for accused No.3: Mr. K.Vasu Deva Raju

^ Counsel for Respondent: Sri T.V.Ramana Rao

Additional Public Prosecutor

? Cases Referred:

NIL

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION Nos.10609, 10610 & 10621 of 2022

COMMON ORDER:

Benignant jurisdiction of this Court is sought for by the petitioners to be freed from jail by grant of bail.

2. Before going deep into the subject matter, the parameters to be applied have to be looked into. The legal principles which validate or invalidate the Court from grant of bail should not only be level-headed, but also rational. Prominent among them being -

- (1)Applicant interfering with the investigation process.**
- (2)Pre-criminological history.**
- (3)Likelihood of polluting the process of justice.**
- (4)Chances of the applicant-bailee to exploit the opportunity, to commit further crimes.**
- (5)Difficulty in securing the presence of the applicant post-release.**
- (6)Threat to the applicant, if any, from the members of the society.**
- (7)Bifocal interests of Justice - to the individual involved and the society affected.**

3. Heard Sri Immaneni Rama Rao, learned counsel who is appearing for accused No.1, Sri L.Ravi Chander, learned senior counsel, who argued on behalf of Sri G.Naga Raju, learned counsel on record for accused No.2, and Sri K.Vasu Deva Raju, learned counsel who is appearing for accused No.3. Also, heard Sri T.V.Ramana Rao, learned Additional Public Prosecutor who is representing the respondent-State.

4. These three Criminal Petitions are filed under Section 439 Cr.P.C., by the persons who are arrayed as accused Nos.1 to 3 in Crime No.455 of 2022 of Moinabad Police Station, Cyberabad, seeking to enlarge them on bail.

5. Initiating the submission, learned senior counsel who is representing accused No.2 contends that the petitioners-accused Nos.1 to 3 were arrested on 26.10.2022, their remand was rejected on 27.10.2022 and later, upon the orders of this Court, they were again arrested on 29.10.2022 and were remanded to judicial custody. Learned senior counsel also submits that the petitioners-accused Nos.1 to 3 thereafter moved separate applications before the Court of I Additional Special Judge for trial of SPE and ACB Cases,

Hyderabad, for grant of bail, but their request was rejected on 14.11.2022. Learned senior counsel also states that notice as required under Section 41-A Cr.P.C. was not issued to the petitioners-accused Nos.1 to 3 and therefore, they are entitled for bail. Learned senior counsel during the course of his submission brought to the notice of this Court the order that is rendered by the Hon'ble Apex Court in SLP(Crl).No.10356 of 2022, dated 21.11.2022 and the observation made therein, which is as under:-

“We request the High Court to consider the bail application, if so filed by the petitioners, expeditiously, since the petitioners are behind the bar for 22 days.”

6. Taking over the submission, learned counsel appearing for accused No.1 states that the complaint itself is not maintainable as the parameters under Section 17 of the Prevention of Corruption Act, 1988, are not followed. Learned counsel appearing for accused No.1 submits that media is trying to influence all the sectors and it is indeed conducting the trial. The submission made by the learned counsel appearing for accused No.3 is that the entire investigation is

completed. He also submits that all the relevant material is seized by Police and hence, there is no question of tampering the evidence and therefore, the petitioners-accused Nos.1 to 3 are entitled for bail.

7. Vehemently objecting the relief sought for i.e., grant of bail, learned Additional Public Prosecutor, on the other hand, contends that an attempt is made by the petitioners-accused Nos.1 to 3 to destabilize the democratically elected Government. Learned Additional Public Prosecutor also states that accused No.1 is involved in two criminal cases and accused No.2 is involved in ten criminal cases. At this juncture, learned senior counsel appearing for accused No.2 states that all those cases are post-registration of the present F.I.R. However, learned Additional Public Prosecutor disputes the said fact. Learned Additional Public Prosecutor also states that as the crime was committed in the presence of Police, issuance of notice under Section 41-A Cr.P.C. does not arise and Police have got every power to arrest. Learned Additional Public Prosecutor also submits that the petitioners-accused Nos.1 to 3 offered Rs.250 crores as bribe

for poaching the Members of Legislative Assembly. Learned Additional Public Prosecutor apprehends that as the petitioners-accused Nos.1 to 3 are holding number of passports, in case, they are enlarged on bail, they may leave the country. Learned Additional Public Prosecutor further contends that some more persons are involved in the offence and they have to be added as accused during the course of investigation. He also states that there is conspiracy among the petitioners-accused Nos.1 to 3 and other suspects and the investigation is still in progress. Learned Additional Public Prosecutor also contends that the petitioners-accused Nos.1 to 3 belongs to different States and hold number of Aadhar cards.

8. By the material available on record and through the submissions thus made by both sides, it is clear that investigation commenced on 26.10.2022. Thus, the case is under investigation since more than a month. It is also not in dispute that relevant material is seized from the possession of the petitioners-accused Nos.1 to 3. It is not the version of the prosecuting agency that the petitioners-accused Nos.1 to 3

have got further material which has to be seized through probe or that, some connected material is yet to be collected through their statements. Also, it is not the case of the prosecuting agency that the petitioners-accused Nos.1 to 3 would have the opportunity to interfere with the investigation process or would commit further crimes in case they are enlarged on bail. Admittedly, the State has got every power to curtail those activities if at all there is any apprehension to that effect.

9. Having perceived the fact that the petitioners-accused Nos.1 to 3 are in judicial custody since more than a month and as the material part of investigation is completed by now as per the submissions made, this Court is of the view that the request of the petitioners-accused Nos.1 to 3 for grant of bail can be honoured, however conditionally.

10. Resultantly, these Criminal Petitions are allowed with the following conditions:-

- (i) The petitioners/accused Nos.1 to 3 shall be enlarged on bail on each of them executing a personal bond for Rs.3,00,000/- (Rupees Three lakhs 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 petitioners/accused Nos.1 to 3 hold passport(s), they are directed to surrender the same, if they were not seized by now.

(iii) The petitioners/accused Nos.1 to 3 should not involve in any unlawful activity.

(iv) The petitioners/accused Nos.1 to 3 should afford all assistance for proper investigation of the case.

(v) The petitioners/accused Nos.1 to 3 should not cause the evidence of the offence disappear.

(vi) The petitioners/accused Nos.1 to 3 should not tamper with the evidence in any manner.

(vii) The petitioners/accused Nos.1 to 3 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 Police Officer.

(viii) The petitioners/accused Nos.1 to 3 should ensure their presence whenever required by the Court or Special Investigating Team.

(ix) The petitioners/accused Nos.1 to 3 shall not leave India without previous permission of the court concerned.

(x) The petitioners/accused Nos.1 to 3 shall report before the Investigating Officer, Special Investigation Team, Hyderabad, at his office on every Monday between 10.30 a.m. and 12.00 p.m. till filing of the final report.

(xi) The petitioners/accused Nos.1 to 3 shall file separate affidavits 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 petitioners shall intimate the court concerned by giving separate fresh affidavits duly mentioning the change. They

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.

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

Dr. JUSTICE CHILLAKUR SUMALATHA

01.12.2022

Note:

LR Copy to be marked.

B/o

dr