

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.11078 of 2022

ORDER:

Heard Sri T.Sujan Kumar Reddy, learned counsel for the petitioner, as well as learned Additional Public Prosecutor who is representing the respondent-State.

2. Seeking the Court to enlarge the petitioner, who is arrayed as accused No.1 in Crime No.93 of 2022 of Rudrur Police Station, Nizamabad District, on bail, the present Criminal Petition is filed under Section 439 Cr.P.C.

3. Making his submission, learned counsel for the petitioner contends that the petitioner has not committed any offence whatsoever and only basing on the statement of one M.Chinna Sailu, the case that was initially registered under Section 174 Cr.P.C. was altered to Section 302 IPC. But, even that person while giving statement under Section 164 Cr.P.C., stated nothing against the petitioner except that he saw the petitioner and the deceased proceeding on a motor cycle on the date of incident and that does not mean that the petitioner has committed offence punishable under Section 302 IPC. Learned counsel also submits that the petitioner is

in judicial custody since 06.9.2022 and the entire investigation is completed and charge sheet is also laid and therefore, the petitioner may be enlarged on bail.

4. On the other hand, the submission of the learned Additional Public Prosecutor is that the petitioner has killed the deceased-Kummari Poshetty and on investigation, Police laid charge sheet that the petitioner and other accused have committed offence punishable under Section 302 r/w 109 IPC and therefore, the petitioner is not entitled for bail.

5. The case of the prosecution in nut-shell, as could be perceived through the material available on record, is that accused No.2 is the wife of the deceased-Kummari Poshetty. Accused No.3 is the mother of accused No.2. Accused No.2 had lent a sum of Rupees One lakh to the petitioner-accused No.1. Thereafter, they both maintained illicit intimacy. The deceased-Kummari Poshetty, who was addicted to the vice of consuming alcohol, was suspecting the character of accused No.2 and was harassing her. In the meantime, the petitioner-accused No.1 repaid Rs.50,000/-. Unbearable of harassment, accused No.2 instigated the petitioner-accused No.1 to kill her husband and informed that in case, the said act is

committed, the remaining amount i.e., Rs.50,000/- need not be paid. On that, the petitioner-accused No.1 accepted to kill the deceased-Kummari Poshetty. The petitioner-accused No.1 executed the plan and by making the deceased-Kummari Poshetty consume liquor, he pushed him into a deep pit which contains water and thereby, the deceased-Kummari Poshetty died due to drowning.

6. Learned counsel for the petitioner submits that the other accused i.e., accused Nos.2 and 3 were enlarged on bail, but the petitioner is in judicial custody since more than three months. Learned counsel, as earlier indicated, stated that except the testimony of one M.Chinna Sailu, there is no other material on record to connect the petitioner with the crime and that apart, as charge sheet is also laid, the petitioner may be enlarged on bail.

7. Having considered the submissions thus made and as this Court does not find any justifiable grounds to keep the petitioner in judicial custody for a further period, 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.1 shall be enlarged on bail on his executing a personal bond for Rs.75,000/- (Rupees Seventy Five thousand 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 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.

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

Dr. JUSTICE CHILLAKUR SUMALATHA

20.12.2022
DR