

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.339 of 2023

ORDER:

Heard Ms. Lakshmi Aiswarya, learned counsel, who argued on behalf of Sri D.Pavan Kumar, learned counsel on record for the petitioners, as well as learned Additional Public Prosecutor who is representing the respondent-State.

2. This Criminal Petition is filed under Section 438 Cr.P.C., on behalf of the petitioners who are arrayed as accused Nos.2 and 3 in Crime No.2 of 2022 of C.I.D., Hyderabad.

3. The matrix of the case, as could be perceived through the contents of the complaint is that M/s Talwar Auto Garages Private Limited and M/s Talwar Cars Private Limited, which are represented by its Directors including the petitioners, approached the defacto complainant's bank for financial assistance and accordingly, loan was sanctioned accepting the mortgage over the property produced. Later, they failed to pay the amount due and the loan accounts became 'NPA'. Subsequently, the bank took steps for auction of the mortgaged property and at that time, the bank came to

know that the property mortgaged was transferred/sold to M/s Talwar Auto Garages Private Limited. The said transaction was made without seeking NOC from the bank and thus, the transfer is by way of fraud.

4. Making her submission, learned counsel for the petitioners submits that the petitioners have not committed any offences whatsoever. Learned counsel for the petitioners submits that after registration of the case, entire amount that was due was paid and the bank issued No Due Certificates to that effect and considering the same, anticipatory bail may be granted.

5. Learned Additional Public Prosecutor admitted the fact of clearing the dues. Also, the requirement of arrest of the petitioners is not found even by the submission of the learned Additional Public Prosecutor. Therefore, this Court is of the view that the request of the petitioners can be honoured.

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

- (i) The petitioners/accused Nos.2 and 3 are directed to surrender before the Court concerned

within ten (10) days. On such surrender, they shall be enlarged on bail on each of them executing a personal bond for Rs.30,000/- (Rupees Thirty 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 petitioners/accused Nos.2 and 3 hold passports, they are directed to surrender the same.

(iii) The petitioners/accused Nos.2 and 3 should not involve in any unlawful activity.

(iv) The petitioners/accused Nos.2 and 3 should afford all assistance for proper investigation of the case.

(v) The petitioners/accused Nos.2 and 3 should not cause the evidence of the offence disappear.

(vi) The petitioners/accused Nos.2 and 3 should not tamper with the evidence in any manner.

(vii) The petitioners/accused Nos.2 and 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 the Police Officer.

(viii) The petitioners/accused Nos.2 and 3 should ensure their presence whenever required by the Court or Police.

(ix) The petitioners/accused Nos.2 and 3 shall not leave India without previous permission of the court concerned.

(x) The petitioners/accused Nos.2 and 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 fresh separate 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.

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

Dr. JUSTICE CHILLAKUR SUMALATHA

14.02.2023
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