

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.1038 of 2023

ORDER:

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

2. As it is stated that the petitioner has committed offence falling within the ambit of the Protection of Children from Sexual Offences Act, 2012, the respondent-State has served notice upon the defacto complainant also. However, none appears.

3. This Criminal Petition is filed under Section 439 Cr.P.C. seeking the Court to enlarge the petitioner, who is arrayed as accused in S.C.P.C.S.No.308 of 2019 which is pending on the file of the Special Court for trial of cases under POCSO Act, Hyderabad, on bail.

4. Making his submission, learned counsel for the petitioner contends that the petitioner was initially enlarged on bail, but as he failed to attend the Sessions Court, the Sessions Court issued non-bailable warrant against him and on knowing about the issuance of non-bailable warrant, the

petitioner voluntarily surrendered before the Court and he was sent to judicial custody. Learned counsel submits that the petitioner was not aware that the case is pending before the Special Court as he made his appearance during pre-trial stage at another Court and thus, the petitioner is not at fault. Learned counsel submits that the petitioner is in judicial custody since 16.12.2022 and the petitioner undertakes to abide by any conditions that may be imposed and therefore, he may be enlarged on bail.

5. The submission of the learned Additional Public Prosecutor is that as the petitioner, on obtaining bail, failed to attend the Sessions Court, a non-bailable warrant was issued against him and though notices were tried to be served upon the sureties, the same could not be served as they vacated their houses and though the non-bailable warrant was issued in the year 2020, the petitioner failed to appear for a long time and therefore, this Criminal Petition is not maintainable.

6. Record discloses gross negligence on part of the petitioner in making his appearance before the Court. Also, the case stood pending due to non-availability of the

petitioner. However, considering the ground urged, this Court considers it desirable to give a fair opportunity to the petitioner to appear before the trial Court regularly and to pursue the matter.

7. With the said observation, this Criminal Petition is allowed with the following conditions:-

(i) The petitioner/accused 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 holds a passport, he is directed to surrender the same, if it is not seized by now.

(iii) The petitioner/accused should not involve in any unlawful activity.

(iv) The petitioner/accused should not cause the evidence of the offence disappear.

(v) The petitioner/accused should not tamper with the evidence in any manner.

(vi) The petitioner/accused 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.

(vii) The petitioner/accused should ensure his presence whenever required by the Court or Police.

(viii) The petitioner/accused is directed not leave to jurisdictional limits of the trial Court till completion of trial and in case, the petitioner intends to do so for any justifiable cause, he shall move an application seeking necessary permission to that effect before the trial Court and on obtaining the required permission, he can leave.

(ix) The petitioner/accused 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.

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

08.02.2023
dr